

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 970**

[FHWA Docket No. FHWA-99-4967]

FHWA RIN 2125-AE52

**Federal Lands Highway Program; Management Systems Pertaining to the National Park Service and the Park Roads and Parkways 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 under National Park Service (NPS) jurisdiction 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.

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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 (PRP), Forest Highways (FH), Refuge Roads (RR), Indian Reservation Roads (IRR), 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 NPS and the PRP program. Separate final rules on management systems have also been developed for the Fish and Wildlife Service (FWS) and the RR program, the Forest Service (FS) and the FH program, and the Bureau of Indian Affairs (BIA) and the IRR program. The other three related final rules are published elsewhere in today's **Federal Register**.

The requirements in the TEA-21 are not intended in any way to interfere with any portion of the National Park Service Organic Act, 16 U.S.C. 1 *et seq.*, which established the NPS. The four management systems serve to guide the NPS in making resource allocation decisions for the PRP transportation improvement programs (PRPTIPs) and help the NPS implement the purpose of the Organic Act, which is to promote and regulate the use of the lands managed by the NPS.

On September 1, 1999, the FHWA issued an advance notice of proposed rulemaking (ANPRM) to solicit public comments concerning development of this proposed rule pertaining to the NPS and the PRP program (64 FR 47749). 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 issue a separate rulemaking document for the management systems

and address transportation planning at a later date.

On January 8, 2003 (68 FR 1080), the FHWA issued the notice of proposed rulemaking (NPRM) seeking comments on the 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 roads under NPS jurisdiction and 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, the FHWA considered other elements for their relationship to the management systems. Among these was the need for an environmental management system (EMS). The FHWA is currently supporting and participating in the development of the American Association of Highway and Transportation Officials' Center for Environmental Excellence in which EMSs, 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 EMS as part of this rulemaking action, but recognizing the importance of EMS initiatives, the FHWA believes that 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, one was from a five-State coalition of State Departments of Transportation (State DOTs), comprised of the State DOTs of Idaho, Montana, North Dakota, South Dakota and

Wyoming (the State DOT coalition), and the other two were from the California (Caltrans) and Washington (WSDOT) State DOTs. The following discussion summarizes the specific comments received on the NPRM and the FHWA's response to the comments.

#### *Rule Development*

*Comment:* The WSDOT and Caltrans provided supportive comments. WSDOT stated the application of management systems for transportation facilities on Federal lands was a good business practice, and the agency offered to provide technical assistance to the Federal land management agencies (FLMAs).

Caltrans indicated general support for the FHWA's efforts to develop management systems for transportation facilities on Federal lands.

*Response:* The FHWA supports efforts by the WSDOT to provide technical assistance in the development of the management systems, and encourages all State DOTs to provide technical assistance, if requested. In addition, the FHWA appreciates recognition by Caltrans and the WSDOT of the importance of the management systems to the FLMAs.

#### *Implementation—Process and Coordination Issues*

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

The State DOT coalition further suggested that two options to achieve this are coordinating with the State DOTs that currently have management systems in place to assure compatibility, and/or pooling resources with other Federal land management agencies. The State DOT coalition also indicated management systems should be implemented efficiently to control costs, including limiting the data collected to the minimum necessary to achieve goals and objectives for the PRP program. The State DOT coalition further indicated that judicious determination of the extent of the requirements for the new management systems could preserve program funds for actual projects. In addition, the State DOT coalition suggested including a provision in the rule that excludes from the management systems any roads that are already the responsibility of a State.

*Response:* Section 970.204 of the final rule, entitled "Management systems requirements," includes a requirement for the NPS and the FHWA to develop an implementation plan for each of the

management systems. The plans will include, but are not limited to: Overall goals and policies concerning the management systems, each agency's responsibilities for developing and implementing the management systems, implementation schedule, data sources, and cost estimate. Other process issues, such as avoiding redundancy, coordination for data sharing, compatibility of data and systems, and specific data required to support the management systems can also be addressed in the implementation plans.

The implementation plans will also provide an opportunity to clarify roles and responsibilities. Nothing in the rule is intended to affect a State's or MPO's role in providing accident or congestion data for its facilities covered by the management systems. The plans are intended to develop effective means of collecting and using information to improve decision-making for the PRP program, and to promote data sharing. Inclusion of State or MPO data in the management systems does not assume that the NPS would duplicate the data collection effort already undertaken by a State or MPO. Emphasis is on the importance of cooperation and coordination in understanding responsibilities, and sharing data.

While the FHWA has acknowledged that part of the data collection burden may be a State responsibility, minimizing that burden is a responsibility of the NPS in their role of establishing and maintaining the management systems. States will have the opportunity to help determine how the information is collected and used during the development of the implementation plans. One important component of the management systems will be compatibility with existing State systems, as a means to minimize any additional data collection burden or duplication of effort.

#### *Implementation: Management System Structure and Data Standards*

*Comment:* The NPS indicated the desire and need for some flexibility in designing the management systems to meet the goals, policies and needs of the PRP program consistent with the intent and requirements of the proposed rule.

*Response:* The FHWA agrees with the NPS comment, and has revised § 970.204(a) to provide for professional engineering and planning judgment in determining the nature and extent of the required management systems coverage.

*Comment:* The State DOT coalition indicated it might be unduly costly to develop a pavement management system for all roads by including unpaved roads.

*Response:* For clarification, the NPS pavement management system already limits coverage to paved park roads and parkways, parking areas, and other associated facilities.

#### **Section-by-Section Analysis**

After careful consideration of the comments received, the FHWA has modified the final rule to address the NPS concern over the need for flexibility in meeting the intent and requirements of the rule. This section-by-section analysis describes the change.

#### *Section 970.204 Management System Requirements*

*Comment:* The NPS indicated a need and desire for 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.

*Response:* The FHWA supports the NPS need and desire for flexibility in developing and implementing procedures for the development, establishment, implementation and operation of the management systems. To provide the necessary flexibility, the FHWA has modified the second sentence of § 970.204(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."

#### **Conclusion**

The FHWA anticipated public interest in this rulemaking. The comments to the docket have helped to raise awareness about roles and responsibilities of all entities involved in the implementation of the final rule that will be important to consider in the development of the implementation plans. These implementation plans 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 changes in the final rule address the flexibility concerns of the NPS and will yield enhanced cooperation and coordination with the State DOTs 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 Parks. The Office of Management and Budget has reviewed this document under E.O. 12866. The FHWA anticipates that the economic impact of any action taken in this rulemaking process will be minimal. The FHWA anticipates the final rule will not adversely affect any sector of the economy in a material way. Though this action will impact the NPS, it will not likely interfere with any action taken or planned by the NPS 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 the benefits outweigh the costs. Information provided by the management systems will enhance transportation investment decisions for the PRP program, and improve the overall efficiency of the NPS transportation system. In addition, the management systems will assist the FHWA in its stewardship and oversight roles. The benefits of the management system 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 action on small entities and has determined that this rule will 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 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 facilities under the NPS jurisdiction 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 National Park Service.

The FHWA estimates that a total of 4,100 burden hours per year would be imposed on non-Federal entities to provide the required information for the NPS management systems. Respondents to this information collection include State transportation departments, Metropolitan Planning Organizations (MPOs), regional transportation planning agencies, and county and local governments.

A measurable level of effort may be required of non-Federal entities to provide management system information for the safety and congestion management systems. A similar level of effort is not anticipated for the pavement and bridge management systems, since the entire PRP system is under the jurisdiction of the NPS. The burden on States and

MPOs will be at a level commensurate with the relatively substantial extent of the PRP system. For estimating purposes, each State has been assigned 34 hours of burden for the safety management system (SMS). Thus, the annual burden estimate for the NPS SMS is 1,700 hours. The level of burden on non-Federal entities will be relatively modest since the NPS will incorporate existing State and local data into the management systems, where feasible.

For the congestion management system (CMS), the non-Federal burden, if applicable, would likely fall to the MPOs, and represents the need for the NPS to coordinate its management system with the MPOs, for that portion of its transportation system that is within an MPO area. This results in a total annual burden estimate of 2,400 hours per year for the NPS CMS.

The State DOT coalition 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.

The FHWA anticipated some burden on States and MPOs in the burden estimates prepared as part of the rulemaking. The State DOT coalition 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 believes the burden estimates to be fair and equitable. The NPS has 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 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.

**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 effect 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 it is 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 970**

Bridges, Congestion management, Grant program—transportation, Highways and roads, Management systems, National parks, 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 subchapter L, consisting of part 970 to read as follows:

**SUBCHAPTER L—FEDERAL LANDS HIGHWAYS****PART 970—NATIONAL PARK SERVICE MANAGEMENT SYSTEMS****Subpart A—Definitions**

Sec.

970.100 Purpose.

970.102 Applicability.

970.104 Definitions.

**Subpart B—National Park Service Management Systems**

970.200 Purpose.

970.202 Applicability.

970.204 Management systems requirements.

970.206 Funds for establishment, development and implementation of the systems.

970.208 Federal lands pavement management system (PMS).

970.210 Federal lands bridge management system (BMS).

970.212 Federal lands safety management system (SMS).

970.214 Federal lands congestion management system (CMS).

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

**Subpart A—Definitions****§ 970.100 Purpose.**

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

**§ 970.102 Applicability.**

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

**§ 970.104 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 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 NPS, the FWS and the FS 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 NPS, the FWS and the FS 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 NPS, the FWS and the FS 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.

*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 Park Service transportation plan* means an official NPS multimodal transportation plan that is developed through the NPS transportation planning process pursuant to 23 U.S.C. 204.

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

*Park road* means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

*Park Road Program transportation improvement program (PRPTIP)* means a staged, multi-year, multimodal program of NPS transportation projects in a State area. The PRPTIP is consistent with the NPS transportation plan and developed through the NPS planning processes pursuant to 23 U.S.C. 204.

*Park Roads and Parkways program* means a program that is authorized in 23 U.S.C. 204 with funds allocated to the NPS by the Federal Highway Administration (FHWA) for each fiscal year as provided in 23 U.S.C. 202(c) and 23 U.S.C. 204.

*Parkway* means a parkway authorized by Act of Congress on lands to which title is vested in the United States.

*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).

## **Subpart B—National Park Service Management Systems**

### **§ 970.200 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. These management systems serve to guide the National Park Service (NPS) in developing transportation plans and making resource allocation decisions for the PRPTIP.

### **§ 970.202 Applicability.**

The provisions in this subpart are applicable to the NPS and the Federal Highway Administration (FHWA) that are responsible for satisfying these requirements for management systems pursuant to 23 U.S.C. 204.

### **§ 970.204 Management systems requirements.**

(a) The NPS shall develop, establish and implement the management systems as described in this subpart. The NPS may tailor all management systems to meet the NPS goals, policies, and 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. The management systems also shall be developed so they assist in meeting the goals and measures that were jointly developed by the FHWA and the NPS in response to the Government Performance and Results Act of 1993 (Pub. L. 103–62, 107 Stat. 285).

(b) The NPS and the FHWA shall develop an implementation plan for each of the management systems. These plans will include, but are not limited to, the following: Overall goals and policies concerning the management systems, each agency's responsibilities for developing and implementing the management systems, implementation schedule, data sources, and cost estimate. The FHWA will provide the NPS ongoing technical engineering support for the development, implementation, and maintenance of the management systems.

(c) The NPS shall develop and implement procedures for the development, establishment, implementation and operation of management systems. The procedures shall include:

(1) A process for ensuring the outputs of the management systems are considered in the development of NPS transportation plans and PRPTIPs and in making project selection decisions under 23 U.S.C. 204;

(2) A process for the analysis and coordination of all management system 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.

(d) All management systems will use databases with a geographical reference system that can be used to geolocate all database information.

(e) Existing data sources may be used by the NPS to the maximum extent possible to meet the management system requirements.

(f) The NPS 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 NPS planning process.

(g) The management systems shall be operated so investment decisions based on management system outputs can be considered at the national, regional, and park levels.

### **§ 970.206 Funds for establishment, development, and implementation of the systems.**

The Park Roads and Parkways 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.

**§ 970.208 Federal lands pavement management system (PMS).**

In addition to the requirements provided in § 970.204, the PMS must meet the following requirements:

(a) The NPS shall have PMS coverage of all paved park roads, parkways, parking areas and other associated facilities, as appropriate, that are funded under the FLHP.

(b) 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 NPS deems appropriate.

(c) The PMS shall be designed to fit the NPS 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) Condition data that includes roughness, 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 park roads, parkways and other appropriate associated facilities in the inventory or any subset. The minimum analyses shall include:

(i) A pavement condition analysis that includes roughness, 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 park roads, parkways 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.

**§ 970.210 Federal lands bridge management system (BMS).**

In addition to the requirements provided in § 970.204, the BMS must meet the following requirements:

(a) The NPS shall have a BMS for the bridges which are under the NPS jurisdiction, funded under the FLHP, and required to be inventoried and inspected as prescribed by 23 U.S.C. 144.

(b) The BMS shall be designed to fit the NPS goals, policies, criteria, and needs using, as a minimum, the following components:

(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) Data described by the inventory section of the National Bridge Inspection Standards (23 CFR part 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 other pertinent information; 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 that are 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.

(c) 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;

(4) Provide short and long term budget forecasting; and

(5) Evaluate the cultural and historical values of the structure.

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

**§ 970.212 Federal lands safety management system (SMS).**

In addition to the requirements provided in § 970.204, the SMS must meet the following requirements:

(a) The NPS shall have an SMS for all transportation systems serving NPS facilities, as appropriate, funded under the FLHP.

(b) The NPS shall use the SMS to ensure that safety is considered and implemented, as appropriate, in all phases of transportation system planning, design, construction, maintenance, and operations.

(c) The SMS shall be designed to fit the NPS goals, policies, criteria, and needs and shall contain the following components: (1) An ongoing program for the collection, maintenance and reporting of a data base that includes:

(i) Accident records with details for analysis such as accident type, using standard reporting descriptions (e.g., right-angle, rear-end, head-on, pedestrian-related), 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, speed, and vehicle classification, as appropriate.

(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 multimodal 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.

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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.

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##### **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