

the significant differences in the ownership, jurisdiction, and maintenance responsibilities that the FLMA's exercise over the subject roadways addressed in the rule. To ensure uniformity, the FHWA coordinated the development of each NPRM, so that similar text and format are contained in each of the rules.

Addressing the Management Systems Requirements

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

Response: The stakeholders' concerns presented above were considered in the development of this NPRM. Each of the proposed management system rules calls for the FHWA, in cooperation with the FLMA, to develop an implementation plan or implementation procedures for each of the management systems. In addition, flexibility is provided to determine criteria for the need and applicability of each of the FLMA's management systems. These implementation plans will provide the opportunity to relate the FLMA management systems to systems already implemented by States and local agencies. It will also allow the management systems to be tailored to fit a broad range of local conditions, and to avoid inefficient duplication of

management systems already in use by the States. Development of the implementation plans will provide an opportunity to strengthen the working relationships among Federal, State, Tribal and local agencies, as well as define responsibility for and ownership of data.

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

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

Approach to Structure of Proposed Regulation

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

Section-by-Section Analysis

Subpart A

Section 970.100 Purpose

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

Section 970.102 Applicability

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

Section 970.104 Definitions

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

The phrase “Federal lands” or “Indian lands,” as applicable, would be added to the definitions of “bridge management system (BMS),” “congestion management system (CMS),” “pavement management system (PMS),” and “safety management system (SMS)” to indicate the distinction between the Federal or Indian lands and Federal-aid management systems (refer to 23 CFR part 500 for definitions of the Federal-aid management systems). The management system definitions also specify their applicability to the BIA, FS, FWS and NPS, as appropriate.

Subpart B

Section 970.200 Purpose

This section states the purpose of this proposed rule, which is to fulfill the requirements set forth by the TEA–21. The section further emphasizes that the management systems would serve as a guide for the development of the NPS transportation plan and the PRPTIP, which are the products of the NPS transportation planning process.

Section 970.202 Applicability

This section defines the applicability of the management systems.

Section 970.204 Management Systems Requirements

This section sets forth general requirements for all four management systems. Additional requirements applicable to specific systems are in §§ 970.208 through 970.214.

Paragraph (a) states that the NPS shall develop, establish, and implement the management systems. This paragraph also requires the NPS to develop the management systems in a way that assists in meeting the goals and measures established through the Government Performance and Results Act (Public Law 103–62, 107 Stat. 285 (1993)). Paragraphs (a) and (e) provide flexibility in the development of the management systems. Paragraph (b) requires the FHWA and the NPS to develop implementation plans for the management systems.

To ensure the management systems are developed, implemented, and operated systematically, paragraph (c) requires the development of procedures that will include the following: Consideration of management system results in the planning process; system

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