

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.

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

Approach to Structure of Proposed Regulation

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

Section-by-Section Analysis

Subpart A

Section 972.100 Purpose

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

Section 972.102 Applicability

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

Section 972.104 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 972.200 Purpose

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

Section 972.202 Applicability

This section defines the applicability of the management systems.

Section 972.204 Management Systems Requirements

This section sets forth general requirements for all four management systems. Additional requirements applicable to specific systems are in §§ 972.208 through 972.214.

Paragraph (a) states that the FWS shall develop, establish, and implement the management systems. Paragraphs (a) and (e) provide flexibility in the development of the management systems. Paragraph (b) requires the FHWA and the FWS 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 analysis; a description of each management system; operation and maintenance of management systems and databases; and data collection, processing, analysis, and updating. Paragraph (d) ensures that the database has a geographical reference system so that information can be geolocated. Paragraph (f) requires a periodical evaluation process of the effectiveness of the management systems, preferably as part of the transportation planning process. Paragraph (g) ensures that transportation investment decisions based on management system results would be used at the regional level.

Section 972.206 Funds for Establishment, Development, and Implementation of the Systems

This section provides that the funds available for the Refuge Roads program

can be used for development, establishment, and implementation of the management systems in accordance with legislative provisions for the funds.

Section 972.208 Federal Lands Pavement Management System (PMS)

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

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

Section 972.210 Federal Lands Bridge Management System (BMS)

Paragraph (a) defines the applicability of the BMS. The section sets forth processes and procedures that must be included in a BMS. They consist of data collection and maintenance, analytical procedures, and reporting procedures.

Section 972.212 Federal Lands Safety Management System (SMS)

Paragraph (a) defines the applicability of the SMS. Paragraph (b) permits the use of the FHWA publication entitled “Safety Management Systems: Good Practices for Development and Implementation.”⁴

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

Paragraph (e) section sets forth components that must be included in a SMS. They include data collection and

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

⁴ “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.