

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 973****[FHWA Docket No. FHWA-99-4968]****RIN 2125-AE53****Federal Lands Highway Program; Management Systems Pertaining to the Bureau of Indian Affairs and the Indian Reservation Roads Program****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Bob Bini, Federal Lands Highway, HFPD-2, (202) 366-6799, FHWA, 400 Seventh Street, SW., Washington, DC 20590; office hours are from 7:45 a.m. to

4:15 p.m., e.t., Monday through Friday, except Federal holidays. For legal questions, Ms. Vivian Philbin, HFL-16, (303) 716-2122, FHWA, 555 Zang Street, Lakewood, CO 80228. Office hours are from 7:45 a.m. to 4:15 p.m., m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access and Filing**

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

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

Background

Section 1115(d) of the TEA-21 (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 safety, bridge, pavement, and congestion management systems for roads funded under the FLHP. A management system is a process for collecting, organizing, and analyzing data to provide a strategic approach to transportation planning, program development, and project selection. Its purposes are to improve transportation system performance and safety, and to develop alternative strategies for enhancing mobility of people and goods.

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

addresses the management systems for the Bureau of Indian Affairs (BIA) and the Indian Reservation Roads (IRR) program.

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 BIA and the IRR program (64 FR 47746). The ANPRM requested comments on the feasibility of developing a rule to meet both the transportation planning and management systems requirements of the TEA-21. Therefore, comments made to the docket addressed both transportation planning and management systems issues. However, the FHWA has decided to publish separate NPRMs for transportation planning and management systems. For this reason, this NPRM concerns only the development of the management systems. This NPRM includes responses to the comments submitted to the docket on the ANPRM that addressed the proposed development of the four management systems. Those comments on the ANPRM that addressed transportation planning will be addressed at a later date. The FHWA received comments addressing the management systems from various State DOT's, Tribal representatives from the Indian Reservation Roads Program Negotiated Rulemaking Committee (Committee), the United South and Eastern Tribes, Inc. (USET), and an intertribal council of twenty-three federally recognized Tribes (Council). These comments are summarized in the following section. Specific comments may be obtained by reviewing the materials in the docket.

Pursuant to Executive Order 13175 (Tribal Consultation), the FHWA has participated in a number of consultation sessions on this rulemaking with numerous Tribal government representatives. The purpose of these sessions was to explain the FHWA's intent in developing the NPRM, as well as to seek input and feedback. To the extent feasible, the FHWA will continue to use the Committee and other key Tribal transportation meetings to consult and coordinate with the (Indian Tribal Governments) ITGs on this rulemaking throughout the remainder of the process. In addition, the FHWA will hold seven informational meetings during the comment period in the following locations at a date and time to be announced in the **Federal Register**: Albuquerque, NM; Anchorage, AK; Minneapolis, MN; Nashville, TN; Portland, OR; Las Vegas, NV; and Tulsa, OK. These meetings will be used to provide an overview of the rulemaking