

process and describe FHWA's purpose and intent in developing the rules. Tribal representatives are encouraged to attend these meetings and to provide suggestions and comments.

Based on the comments we received on the ANPRM and during Tribal consultations, the FHWA has developed this NPRM 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. Separate NPRM's on management systems have also been developed for the National Park Service (NPS) and the Park Roads and Parkways program, the Fish and Wildlife Service (FWS) and the Refuge Roads program, and the Forest Service (FS) and the Forest Highway program. The other three related NPRM's are published elsewhere in today's **Federal Register**.

On April 21, 2000, then President Clinton issued Executive Order (EO) 13148, Greening the Government Through Leadership in Environmental Management. This EO requires all Federal agencies to implement an environmental management system (EMS) to ensure that agencies develop strategies to support environmental leadership in programs, policies, and procedures and that senior level managers explicitly and actively endorse these strategies. The EO requires that agencies implement an EMS no later than December 31, 2005. Furthermore, in an April 1, 2002, letter, the Bush Administration encouraged all agencies to promote the use of EMS in Federal, State, local, and private facilities and directed the Environmental Protection Agency (EPA) to report annually on how well each agency has done in promoting EMS.

The FHWA has already begun working toward establishing an EMS. Additionally, the FHWA is working with the American Association of State Highway and Transportation Officials' (AASHTO) Center for Environmental Excellence to include EMS as part of an environmental stewardship demonstration project. The FHWA is currently providing technical and financial assistance to the Center, which in turn supports States that have initiated EMSs.¹ Furthermore, the FHWA continues to demonstrate environmental stewardship by encouraging the use of EMS in the

construction, operation, and maintenance of transportation facilities.

Although an EMS may have some overlap with the four management systems that are the subject of this proposed rulemaking, the FHWA has decided not to incorporate the EMS in this rulemaking. The FHWA believes that great progress has been made on the EMS and promoting the use of EMS by the States. In addition, the FHWA has a long-standing working relationship with the Federal Land Management Agencies (FLMAs) through the Federal Lands Highway Program. The natural resource conservation and preservation missions of these agencies have led to the development of a jointly held environmental ethic that pervades transportation project decision-making through the use of context sensitive design, best management practices, and a heightened sensitivity to environmental impacts. This relationship provides a strong foundation for the FHWA to encourage the use of environmental management systems by the FLMAs. For example, the National Park Service currently has an initiative underway to implement a service-wide EMS approach. The FHWA and the NPS can evaluate ways to coordinate the use and development of the EMS with the transportation management systems through the joint development of the management system implementation plan called for in this rulemaking. A similar approach can be used with all of the FLMAs.

Any EMS developed by the FHWA, or by a FLMA, will not have an adverse effect on any of the management systems in this proposed rulemaking. Instead, such an EMS may help foster a movement toward the use of a comprehensive asset management system that incorporates EMS, along with the transportation management systems proposed in this rulemaking, and others not covered in this proposed action, such as a maintenance management system. The role of the EMS in a more comprehensive approach would demonstrate a commitment to environmental stewardship that goes beyond the individual project level or the development of a multi-project transportation program. The EMS should be a fundamentally important business tool that pervades all aspects of FLMA transportation decision-making. The FHWA will continue to advance its EMS and promote the EMS initiatives of the FLMAs through implementation planning for the transportation management systems. In addition, the FHWA will continue to promote the use of EMSs in the construction, operation,

and maintenance of transportation facilities.

In developing the management system implementation plans, the need for data elements that address the environmental performance measures can be evaluated in relationship to individual agency plans to implement an EMS. This could provide an opportunity for the ongoing collection of environmental information, if appropriate and necessary. At a minimum, this would provide an opportunity to link existing environmental data to the transportation management systems using a geographic information system common to both systems.

From the FHWA's stewardship perspective regarding the Federal Lands Highway Program, EMS is most appropriately pursued as part of sound FLMA business management planning. Thus, the FHWA has decided not to address the EMS requirement in this proposed rulemaking action.

Summary of Comments Received on the ANPRM Pertaining to the BIA and the Indian Reservation Roads Program

The following discussion summarizes the comments received on the ANPRM and the FHWA's response to these comments. This discussion provides the public a general sense of the issues addressed in the comments. As previously stated, this NPRM is intended for the development of management systems. Therefore, this summary contains only comments and responses related to the management systems. There are instances where reference is made to transportation planning issues because the management systems serve as a guide to planning activities.

Rule Development

Comments: The majority of comments supported the FHWA's proposal to develop "separate rules" pertaining to the BIA and the Indian Reservations Roads program, the FWS and the Refuge Roads program, the NPS and the Park Roads and Parkways program, and the FS and the Forest Highway program. The commenters in favor of this proposal pointed out the fact that transportation planning functions for the different Federal lands highways are performed by various Federal, State, and local entities, depending on ownership of the roadways and responsibilities for constructing and maintaining the facilities.

The Wisconsin DOT and the Kentucky Transportation Cabinet offered an opposite view. These two State Transportation Departments requested that we develop only one

¹ More information on how EMS applies to transportation organizations can be found on the AASHTO's Center for Environmental Excellence Web site at the following URL: <http://itre.ncsu.edu/AASHTO/stewardship>.