

Authority and Issuance

■ For the reasons set forth above, the Federal Trade Commission amends 16 CFR part 1 as follows:

■ 1. Amend part 1 by adding a new subpart N (consisting of § 1.100) to read as follows:

Subpart N—Administrative Wage Garnishment

Sec

1.100 Administrative wage garnishment.

Authority: 15 U.S.C. 46; 31 U.S.C. 3720D; 31 CFR 285.11(f).

§ 1.100 Administrative wage garnishment.

(a) *General.* The Commission may use administrative wage garnishment for debts, including those referred to Financial Management Service, Department of Treasury, for cross-servicing. Regulations in 31 CFR 285.11 govern the collection of delinquent nontax debts owed to federal agencies through administrative garnishment of non-Federal wages. Whenever the Financial Management Service collects such a debt for the Commission using administrative wage garnishment, the statutory administrative requirements in 31 CFR 285.11 will govern.

(b) *Hearing official.* Any hearing required to establish the Commission's right to collect a debt through administrative wage garnishment shall be conducted by a qualified individual selected at the discretion of the Chairman of the Commission, as specified in 31 CFR 285.11.

By direction of the Commission.

Richard C. Donohue,

Acting Secretary.

[FR Doc. 2010-28045 Filed 11-5-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 511**

RIN 2125-AF19

Real-Time System Management Information Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: Section 1201 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the Secretary of Transportation (Secretary) to establish a Real-Time System

Management Information Program that provides, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share these data with State and local governments and with the traveling public. This rule establishes minimum parameters and requirements for States to make available and share traffic and travel conditions information via real-time information programs.

DATES: This rule is effective December 23, 2010. Establishment of the real-time information program for traffic and travel conditions reporting along the Interstate system highways shall be completed no later than November 8, 2014. Establishment of the real-time information program for traffic and travel conditions reporting along the State-designated metropolitan area routes of significance shall be completed no later than November 8, 2016. Comments must be received on or before December 23, 2010. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rupert, FHWA Office of Operations, (202) 366-2194, or via e-mail at robert.rupert@dot.gov. For legal questions, please contact Ms. Lisa MacPhee, Attorney Advisor, FHWA Office of the Chief Counsel, (202) 366-1392, or via e-mail at lisa.macphee@dot.gov. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access and Filing**

This document, the notice of proposed rulemaking (NPRM), and all comments received may be viewed on line through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, 365 days each year. Please follow the instructions.

An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at <http://www.archives.gov> or the Government Printing Office's Web page at <http://www.gpoaccess.gov/nara>.

Comments may be submitted electronically to the Federal eRulemaking portal at <http://www.regulations.gov>. 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 from 9 a.m. to 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. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78) or you may visit <http://DocketsInfo.dot.gov>.

Background*History*

Under the heading of "Congestion Relief," section 1201 of SAFETEA-LU (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005) requires the Secretary of Transportation to establish a Real-Time System Management Information Program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information. The purposes of the Real-Time System Management Information Program are to:

(1) Establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

(2) Identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and

(3) Provide the capability and means to share that data with State and local governments and the traveling public.

Section 1201(c)(1) of SAFETEA-LU states that as State and local governments develop or update regional intelligent transportation system (ITS) architectures, described in 23 CFR 940.9, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information. The FHWA envisions that States carrying out updates of regional ITS architectures would consider broadening the geographic coverage area for gathering

and reporting traffic and travel conditions.

These regulations do not impose any requirement for a State to apply any particular technology, any particular technology-dependent application, or any particular business approach for establishing a real-time information program. States and other public agencies are instead encouraged to consider any salient technology, technology-dependent application, and business approach options that yield information products consistent with the requirements set forth in this rule. States are encouraged to work with value added information providers to establish real-time information programs. Value added information providers presently and in the future will create information products for commercial use, for sale to a customer base, or for other commercial enterprise purposes. Based upon this rule, such products could be derived from information from public sector sources in addition to the private sector's own capabilities for creating information content.

The extent of the final rule is solely the provision of real-time information. It does not require the dissemination of the information in any particular manner, just that the State make said information available. The final rule does not require or mandate a particular technology nor on a technology-dependant application. States establishing a real-time information program would be able to employ any solution chosen to make information available. States and public agencies can enter into collaborative agreements with the private sector for establishing the program and gathering data. States and public agencies could purchase value added information products from value added information providers. States and public agencies could apply combinations of these, and other approaches to establish a successful real-time information program.

A Request for Comments was published on May 4, 2006, at 71 FR 26399, that presented a proposed scope for a Real-Time System Management Information Program. Using responses to this request, an NPRM proposing the creation of a new part 511 of 23 CFR was published on January 14, 2009, at 74 FR 1993. The purpose was to propose the establishment of minimum parameters and requirements for States to make available traffic and travel conditions information via real-time information programs.

A two-stage implementation was proposed in the NPRM that included the Interstate highway system as the first

stage for coverage within 2 years, followed by other routes of significance as identified by the States within 4 years. The real-time information elements include lane or road closures because of traffic incidents and work zones, road weather observations, and, in metropolitan areas with populations greater than one million, travel times. The timeframes proposed for the information were 20 minutes outside of applicable metropolitan areas and 10 minutes for information in the metropolitan areas (except for roadway weather observations that remained at 20 minutes). It was proposed that the information be 85 percent accurate and available 90 percent of the time.

Summary Discussion of Comments Received in Response to the NPRM

The following presents an overview of the comments received in response to the NPRM.

Profile of Commenters

Comments were submitted by a representative cross-section of State and local agencies, business organizations, and individuals that will be affected by the Real-Time System Management Information Program established through this rule. The docket contained comments from 35 parties, two of which were duplicates. The commenters included 16 State departments of transportation (DOT); one automobile manufacturer; 2 State associations, the American Association of State Highway and Transportation Officials (AASHTO), and the Northwest Passage Pooled Fund Study; the Intelligent Transportation Society of America, a technical association; Texas Transportation Institute (TTI), a university research center; the Vehicle Traffic Information Coalition, a trade association; 3 traffic information providers; the 511 Coalition, a public/private traffic information coalition; 2 traffic information related software and equipment providers; 2 metropolitan planning organizations; a public safety operations and communications agency; and 2 individuals.

Overall, the commenters supported the goals of the proposed rule, namely collecting traffic information and making it available to other public and private entities. The comments from commercial companies tended to favor deployment to an even broader base than that specified in the proposed rule with the same or more aggressive schedule. Although several State DOTs commented that the data collection goals were already being met or were achievable in the proposed time frame, over two thirds of the DOTs indicated

that the proposed schedule was too short, or that the deployment of the mandated capability would be too expensive. The AASHTO noted in its comments that AASHTO members believe the goals of the NPRM are good but would not be attainable for several of the members in the time frame proposed. The AASHTO also commented on the potential coordination challenges and conflicts among the existing federally-required processes related to regional ITS architectures and to transportation planning and the proposed real-time system management information program.

The AASHTO commented that FHWA needs to consider employing a phased approach, establishing goals and targets for the program with much longer timelines. The AASHTO and the States also recommend that any Real-Time System Management Information Program be based on implementing the State and regional ITS architectures and be based on regionally determined customer needs. Finally, AASHTO and the States asked FHWA to recognize that the proposed Real-Time System Management Information Program will have significant fiscal impacts to the States for implementing the necessary ITS capabilities initially and for ongoing operating and maintenance of the systems over time.

The FHWA has reviewed and analyzed the comments received and thanks the commenters for their insightful input. Based on other input from DOTs and on FHWA's observations of the various traffic and information systems that States and local agencies have deployed, the FHWA continues to find that many States have already accomplished much of the work necessary to establish their real-time information program and that the costs are containable within the funding eligibility categories identified by the rule. However, agencies almost unanimously responded that the 2-year time frame proposed in the NPRM to develop the information program was insufficient due to constraints imposed by their existing planning and budgeting cycles. Many agencies indicated that additional time was necessary to enable eligible funding categories to be programmed to develop their real-time management information program. Consequently, the FHWA reevaluated the consequences of extending the period of implementation. The FHWA concluded that a 4-year compliance date of the rule is an appropriate time frame for States to establish the real-time information program for traffic and travel conditions that encompass all

Interstate highways operated by the State. Further, FHWA found appropriate a 6-year effective date to establish the real-time information program along the State-designated metropolitan area routes of significance. The additional time provided by the rule is expected to afford States adequate time to establish their real-time information management program in concert with their other needs, priorities, and budgets.

Another area of concern expressed by a majority of DOTs is the accuracy that will be required of the data they are to share and expectations about how the program will be monitored. The TTI commented that a number of implementation details are not specified in the proposed rule. The TTI cited examples of how State agencies will know if their data meet the quality requirements, what evaluation guidance will be used, and how often agencies are to evaluate accuracy or timeliness. Kansas DOT (KDOT) further elaborated by commenting that many of the elements that are proposed to be provided will be subjectively measured or difficult to measure accurately. KDOT recommended that FHWA provide more information regarding the flexibility that States will have to determine levels of accuracy States can set or are able to achieve. KDOT further commented that FHWA needs to provide more information regarding expectations of how States would monitor performance or measure accuracy of the information.

The FHWA agrees philosophically that a highly detailed set of data quality statistics and an associated validation process are desirable. However, achievement of specific parameters and methodologies requires identifying in detail the intended usage for the data and the technology to be used for its acquisition. The FHWA believes that adopting this approach would place limitations on the use of the data that were not intended or desired, and in many instances would impose an unnecessary cost on agencies while attempting to comply with more detailed requirements. However, FHWA does acknowledge that, based on the comments received, additional clarification is needed for the effective implementation of the program. In response, and as suggested by a number of commenters, modifications have been incorporated into sec. 511.311(b) to better define the collaborative responsibilities and contributions of the State and the FHWA Division Office during the creation of the real-time information management program to include the identification of the processes to be used by the States in gauging and assuring the quality of the

information to be made available by the real-time system management information program.

Several commenters included discussions about the methods used to disseminate the information. The methods and technologies to disseminate or distribute the information available from the Real-Time System Management Information Program are not within the scope of the regulation. In fulfilling the requirements of sec. 1201 of SAFETEA-LU, this regulation establishes a base level of information for traffic and travel conditions for all States. To provide agencies maximum latitude in their use of the information and the use of the information by their partners, the rule does not specify requirements or details related to information distribution methods. States and other public agencies are instead encouraged to consider any salient technology, technology-dependent application, and business approach options that yield information products consistent with the requirements set forth in this rule.

Many DOTs expressed concern about the proposed rule's requirements to provide roadway weather information, with particular concern expressed about the 20 minute update requirement. The California DOT agreed that weather information is vital but noted that there are numerous providers currently in the business, and suggested that the requirements be diminished. The KDOT commented that it is relatively easy to report weather information through existing weather stations but it is more difficult to produce road information that is useful to the motorist, and that updating this information every 20 minutes is not feasible without large investments in unproven technology. After further review, the FHWA agrees that the proposed requirements for weather information exceed the proposed requirements for other travel conditions and are not as uniformly applicable for all States. To be consistent with information for other travel conditions under the Real-Time System Management Information Program, sec. 511.309(a)(3) of the rule has been modified to indicate that the State's Real-Time System Management Information Program is required to provide confirmed weather related hazardous driving conditions and roadway- or lane-closure information, and that the information made available is to be updated within 20 minutes of notice of a changed condition.

A number of agencies commented on the difficulty of providing travel time data on the non-Interstate roadways designated as routes of significance. The

Michigan DOT (MDOT) remarks summarized these concerns in its comments, noting that the MDOT does not believe there is a current system or algorithm that can be implemented at a reasonable cost that can collect travel times on surface streets. The FHWA agrees with this comment. Accordingly, the definition for traffic and travel conditions in sec. 511.303 removes the extent and degree of congested conditions as one of the characteristics of traffic and travel conditions and the requirements are modified in sec. 511.309(a)(4) for the real-time system management system to make available travel time information in metropolitan areas only on Interstate and other limited-access roadways that are designated as routes of significance.

In the NPRM, the FHWA requested comments on the viability and practicality for including transit event information. With the exception of one individual and the Chicago Office of Emergency Management and Communications, the commenters did not encourage including transit information. AASHTO's response was, "We recognize the value of reporting transit information along with roadway information through similar channels to the end user. However, there are significant challenges associated with achieving this goal. A real-time system management information program requiring transit information would require agreements with transit agencies over which the state DOT has no control." NAVTEQ recommended that instead of including transit event information in this rule that a parallel outreach and rule-making process be established to develop the transit portion of the program. Based on this input the FHWA determined that including transit event information delivery from a real-time information program is not practical at this time.

The FHWA requested comments on the viability and practicality for using varying roadway segment lengths for conveying travel time for a real-time information program. AASHTO, several DOTs, and INRIX indicated that requiring segment lengths as part of the rule will make it difficult for many agencies to comply. The Pennsylvania DOT pointed out that imposing maximum segment lengths potentially eliminates public-private partnerships from occurring. The AASHTO requested in its comments that States have flexibility to work with FHWA to develop provisions for traffic and travel time reporting that are specific to each State's individual situation. After evaluating the comments received regarding specifying roadway segment

lengths for conveying travel time in the rule, FHWA concurs with AASHTO's recommendation and has not added specifications for roadway segment lengths referenced in sec. 511.309(a)(4) in the regulation.

In the NPRM discussion of Executive Order 12866, the FHWA requested comments on the economic analysis of the proposed regulations including appropriateness of using the Georgia Navigator study in the "Regulatory Cost Analysis of Proposed Rulemaking" to estimate benefits. INRIX commented that the estimates using data from the Navigator study dramatically overstate costs associated with urban area traffic monitoring. INRIX contends that the data collection technologies Navigator uses are much more expensive than currently available data collection technologies. Since the choice of technologies is to be determined by the agencies, INRIX's comment indicates the analysis performed may be conservative in some cases. The KDOT concurred with AASHTO's comments agreeing with the benefit-cost analysis that shows a positive return on investment. However, AASHTO also identifies two concerns: The cost associated with trying to measure travel times on signalized arterial streets, and a request for the cost of variable message signs to be considered in the analysis. As discussed previously, the requirement to deliver travel time on arterial streets has been removed from the rule, which alleviates the first concern. Regarding the second concern, specific delivery methods or technologies are not within the scope of this regulation. FHWA determined that the cost of these signs is not relevant as the rule pertains only to making the real-time information available and does not include the delivery mechanism or the costs associated with the mechanism.

The FHWA also requested comments regarding how DOTs anticipated they will comply with the proposed regulations, including technologies and cost. The "Regulatory Cost Analysis of Proposed Rulemaking" assumed a traditional device-based approach for estimating costs to ensure a conservative (high) implementation estimate as a basis. Other techniques for gathering traffic flow information, such as those offered by the private sector, could result in implementation costs that are 87 percent lower.¹

The MDOT and Virginia DOT (VDOT) submitted cost estimates. The MDOT noted a number of activities that it believed needed to be completed to properly implement the Real-Time System Management Information Program as proposed. These activities included developing a real-time cell phone application to be used by field personnel for lane closures and openings, developing a central application to receive the field reports and transmit those reports to other systems and the public, developing Computer Aided Dispatch (CAD) interfaces with every 911 call center and CAD implementation in the State of Michigan, and maintaining additional staff on a 24-hour basis, with at least one person needed to handle each of MDOT's seven regions and possibly more in the Detroit metropolitan area. MDOT estimated that the system will cost \$55,000,000 to \$85,000,000 to develop. Of this, \$28,000,000 to \$56,000,000 is for deployment of an extensive roadway weather information system that likely is not required for a real-time information program.

At the low end of the cost range, VDOT commented that for it to fully comply with aspects of the proposed rule, an expansion of existing data services and of CAD and transportation operations center integration efforts would be required. To meet the requirements for real-time traveler information, including travel times, VDOT noted that it would likely expand an existing data services contract to receive data for approximately 1,200 miles of Interstate, estimated to require a minimum investment of \$1,000,000 per year. The VDOT further commented that it would need to integrate information from approximately 60 of the 127 local 911 centers in Virginia. The VDOT estimates that the approximate cost to integrate a 911 center with a transportation operations center is \$125,000, for a total statewide capital cost of \$7,500,000, plus increased costs for operations, maintenance and hosting services. The VDOT commented that FHWA should consider funding this effort with an annual commitment of \$2M, based on VDOT's ability to only apply a limited level of funding over the next few years.

The differences in the two agencies' comments related to the costs for implementing the regulation reflect the different levels of existing capabilities

and reinforce the need to allow flexibility to the States in identifying roadways beyond the Interstate routes to be included in the Real-Time System Management Information Program. The considerable differences in the two agencies' interpretations of the proposed requirements confirms the need for implementation guidance that FHWA will develop for DOTs as assistance in the development of their real-time information programs. Later in this document, the FHWA is requesting additional comments on the cost benefit analysis to obtain more specific information in order to achieve the objectives of the statute and the rule to ensure an optimal benefit and cost balance.

Comments Directed at Specific Sections of the Proposed New 23 CFR Part 511

Section 511.301—Purpose

As indicated previously, almost every response supports the goals of the proposed rule. A common comment among all responders is "we support the desire of FHWA to promote advances in the delivery of traveler information," and the NPRM was praised for being well meaning and ultimately beneficial as travelers will be more informed than they are today. However, as already discussed and as presented in subsequent sections, commenters did not uniformly support all of FHWA's approaches to achieving those goals.

Section 511.303—Definitions

In the NPRM, definitions were included in proposed § 511.305, but for this final rule to be consistent with other regulations, definitions are in § 511.303.

As indicated earlier, comments were received requesting clarification about the definition of "accuracy," and a similar clarification concerning roadway weather conditions. In both cases, the definitions for these terms and related language in § 511.303 have been supplemented to clarify these distinctions.

INRIX suggested that the term "(e.g., volume and speed are * * *)" used in the definition for "availability" be changed to "(e.g., speed and travel time)" since volume is only used one time in the rule, and only for illustrative purposes. The TTI suggested eliminating definitions for "accessibility" and "coverage" as these terms are not used in the proposed rule. The FHWA agrees with these comments and § 511.303 of the rule has been modified accordingly.

Comments on subsequent sections of the proposed rule that are discussed

¹ The "Regulatory Cost Analysis of Proposed Rulemaking" assumed a cost of \$76,789 per mile to instrument a freeway to gather information consistent with that proposed in this rulemaking. A project undertaken by the I-95 Corridor Coalition that procured real-time information from a private

provider (INRIX) used a data acquisition cost model that provides traffic flow information consistent with the information proposed in this rulemaking for a cost of \$9,535 per mile, amortized over 10 years. Information about the I-95 Coalition project is available at <http://www.i95coalition.org>.

elsewhere resulted in including additional definitions in the rule. The definitions of “full construction activities” and the definition of “routes of significance” have been added to § 511.303.

Although no specific comments were received concerning the “traffic and travel conditions” definition allowing the reporting of predicted conditions, this clause was determined to be unnecessary and was removed from § 511.303.

Section 511.307—Eligibility for Federal Funding

Section 511.307 outlines the eligibility of Federal funding to plan and deploy the real-time monitoring elements and the project applications to establish a real-time information program on Interstate and non-Interstate highways. Almost all agencies commented that establishing a real-time information program either costs too much or puts a financial hardship on them, and requested that dedicated funding be provided. Addressing this request for dedicated funding is beyond the purview of the rule. However, additional comments indicated financial burdens were due to the inability of agencies to use eligible funds within the time frame specified in the rule due to their planning and budgeting cycles. As indicated previously, FHWA determined that extending completion of establishing the real-time information program for traffic and travel conditions will facilitate State and local agencies use of the eligible funds identified in this section.

The AASHTO, five DOTs, and INRIX identified funding for the operation and maintenance costs of a Real-Time System Information Management Program as a barrier to its implementation. In several instances the comments also indicated a misunderstanding of the eligibility of the operating and maintenance costs of such a system for Federal funding. The funds identified in § 511.307 *Eligibility for Federal funding* of the final rule may be applied to the operating and maintenance costs of a Real-Time System Information Management Program. The Transportation Equity Act for the 21st Century (TEA-21) reinforces the Federal commitment to manage and operate the Nation’s transportation system. Under TEA-21, the Federal-aid Highway Program continues eligibility of operating costs for traffic monitoring, management, and control. The legislation defines operating costs as including labor costs, administrative costs, costs of utilities and rent, and other costs associated with the

continuous management and operation of traffic systems. Additional information concerning operating cost eligibility under the Federal-aid Highway Program can be found at URL: http://www.ops.fhwa.dot.gov/travelinfo/resources/ops_memo.htm. To more completely illustrate funding eligibility, the final rule’s language has been modified to include an explicit reference to the eligibility of operations, including applicable preventative maintenance to ensure reliable operations, for funding.

Section 511.309—Provisions for Traffic and Travel Time Conditions Reporting

Section 511.309 presents the timeliness, accuracy, and availability provisions that the real-time information programs are subject to for reporting traffic and travel time conditions; and authorizes use of legacy or new mechanisms to establish the real-time information programs. Almost all of the commenters included a comment on one or more of the proposed provisions with most expressing concern that many of the requirements were not achievable. The San Francisco Bay Area Metropolitan Transportation Commission (MTC) commended FHWA for basing the proposed requirements on the work of an industry group such as the 511 Coalition. However, MTC expressed concerns about translating the recommended goals from the industry group to required minimum requirements for the Real-Time System Management Information Program and commented that there needs to be some tailoring of the recommendations. In contrast, several companies viewed the requirements differently and commented that more restrictive provisions should be specified. For example, NAVTEQ commented that the final rule should reduce the timeliness requirements from 10 and 20 minutes (urban and rural) to 5 and 10 minutes. BMW also commented that 5 minutes or less was more appropriate, but also indicated that the reduced time limits initially should be treated as goals. The following summarizes the responses to this section.

511.309(a)(1) Construction Activities

The NPRM proposed a timeliness requirement for providing full construction activities from the time of occurrence of 20 minutes or less for highways outside of metropolitan areas and 10 minutes or less for highways within metropolitan areas. As noted previously, many DOTs described the difficulty of obtaining construction activity information in rural areas and

asserted that the cost to provide construction activity information specified in the proposed rule would greatly exceed any potential benefit. They also requested clarification of the expectations intended in the time thresholds. The FHWA finds many of the difficulties described by the proposed rule to be valid and has included the definition for “full construction activities” in § 511.301 and has modified the rule language in § 511.309(a)(1) to clarify which construction activities that close or reopen roads and lanes are to be reported, how quickly the information is to be made available, and the information update requirements.

Section 511.309(a)(2) Roadway or Lane Blocking Incidents and Events

Section 511.309(a)(2) presents the requirements for providing information about roadway or lane blocking traffic incidents. The requirements for providing this information are similar to those specified in § 511.309(a)(1) above, and received similar comments. Many commenters requested clarification related to whether the reporting requirement for traffic incidents was related to the time of the occurrence of the incident or to the verification of the incident. The FHWA has modified the rule language in § 511.309(a)(2) to clarify the requirements of the information to be made available are based on when the traffic incident is verified.

Section 511.309(a)(3) Roadway Weather Observations

Section 511.309(a)(3) presents the requirements for delivering roadway weather observations. As discussed earlier, many DOTs expressed concern about the timeliness requirements in the proposed rule that the roadway weather observation information was to be made available. They also requested clarification of the information to be reported. The FHWA has modified the rule language in § 511.309(a)(3) to clarify that the minimum reporting requirements are for weather conditions that result in hazardous driving conditions or roadway and lane closures.

Section 511.309(a)(4) Travel Time Information

Section 511.309(a)(4) presents the requirement for providing updated travel time information along highways within metropolitan areas. In response to comments that practical algorithms and systems to derive travel times on roadways currently exist only for limited access highways, the rule’s

language in § 511.309(a)(4) has been modified to clarify the minimum requirement for updated travel time information is for Interstate and designated routes of significance in the Metropolitan Areas that are limited access highways.

Section 511.309(a)(5) Information Accuracy and Section 511.309(a)(6) Information Availability

In response to requests for clarification of the accuracy and availability relationship from several agencies, the rule's language in § 511.311(b) has been modified as noted below.

Section 511.311(b) Real-Time Information Program Establishment—Data Quality

Section 511.311(b) requires States to develop methods by which data quality can be ensured to the data consumer. Several agencies questioned how timeliness, availability, and accuracy will be measured. They asked what are FHWA's expectations for how DOTs will monitor the program. The rule's language in § 511.311(b) has been modified to afford flexibility to States in meeting quality requirements based on the methods they select to implement the Real-Time System Management Information Program. The States shall develop procedures or processes for measuring and ensuring the quality of the information provided under the Real-Time System Management Information Program, and receive concurrence from FHWA on the selected processes. The States shall demonstrate how the selected processes measure the quality of the information in meeting the requirements of sections 511.309(a)(5) and 511.309(a)(6) and provide for remedial actions to maintain the required levels of quality.

Section 511.311(c) Real-Time Information Program Establishment—Participation

Agencies that should participate in implementation of a real-time information program are listed in § 511.311(c). The comments generally acknowledged that significant cooperation is desired, but mentioned drawbacks of requiring multiple partners. Several DOTs pointed out that State agencies cannot verify the accuracy or timeliness of data from another agency. Commenters also pointed out that widespread agency participation will necessitate education and training be provided for first responders such as county/local law enforcement and fire departments. The FHWA recognizes the institutional

difficulties that must be resolved for multiagency participation in a real-time information program, but continues to believe that the benefits realized far exceed the efforts required to craft a successful program.

Section 511.311(d) Real-Time Information Program Establishment—Update of Regional ITS Architecture

Section 511.311(d) discusses the requirement that States and regions that have created a Regional ITS architecture are required to maintain and update the architecture, and indicates in broad terms the general factors that must be addressed by the updated architecture including featuring the components and functionality of the Real-Time System Management Information Program. Several comments mistakenly applied the regional ITS architecture general factors to the requirements of the Real-Time System Management Information Program. The AASHTO commented that the State and regional ITS architectures that have been developed are based on regionally determined customer needs and may have identified other higher priority needs in their architecture than those identified in the NPRM. The AASHTO notes that this may present a particular concern to the State agencies if funding has already been allocated to those areas. Many commenters expressed that the 2 year time frame is too short for some States and regions to address their regional ITS architecture issues. For this reason, among others, FHWA has extended the time requirement in sections 511.311(e) and 511.313(d) to establish the real-time information program to 4 years after publication of final rule.

The San Francisco Bay Area MTC commented that, while § 511.311(d) requires ITS architectures to be updated to reflect the requirements of the Real-Time System Management Information Program, some ITS architectures may already include requirements for the Real-Time System Management Information Program. The MTC comments that § 511.311(d) should be modified to require ITS architectures to be evaluated to determine if updates are needed to reflect the Real-Time System Management Information Program, and that those that do not adequately reflect the Real-Time System Management Information Program should be updated accordingly. The FHWA agrees with this comment and the rule language in § 511.311(d) has been modified to require evaluation of ITS architectures to determine whether they need to be updated to reflect requirements of the Real-Time System Management Information Program.

Section 511.311(e) Real-Time Information Program Establishment—Effective Date

Section 511.311(e), which specifies an effective date of 2 years after publication to establish a Real-Time System Management Information Program, drew many responses. As reported earlier, based on the comments received, FHWA has changed the § 511.311(e) to require establishment of the Real-Time System Management Information Program for traffic and travel conditions reporting along the Interstate system highway within 4 years after the date of the rule's publication.

Section 511.313(b) Metropolitan Area Real-Time Information Program Supplement—Requirement

Metropolitan Areas are required to implement a Real-Time System Management Information Program on both Interstates and routes of significance in the Metropolitan Area. The term "Metropolitan Area" is intended to allow options for either the State or the Metropolitan Area's local government agency to implement the program, based on what works best for each location.

Section 511.313(c) Metropolitan Area Real-Time Information Program Supplement—Routes of Significance

Several DOTs submitted questions concerning designation of "routes of significance" in metropolitan areas. Several of the commenters observed that success of these provisions require cooperation between the agencies and FHWA concerning priorities, funding, and staffing, and that consultation with FHWA is necessary to define their specific system. The FHWA concurs with these observations. Furthermore, upon reviewing this section, the specific responses to the questions raised are dependent upon local conditions and should be resolved through a dialogue between the local agencies and their respective FHWA Divisions. In response to the comments received about "routes of significance," its definition is included in § 511.303

As indicated, many of the DOTs responding to the NPRM identified the 4-year time requirement to establish routes of significance real-time information program to be unattainable. Based on these comments, § 511.313(c) of the rule has been changed to indicate a 6-year time requirement for implementation of the Real-Time System Management Information Program on "routes of significance" in Metropolitan Areas.

Section 511.313(d) Metropolitan Area Real-Time Information Program Supplement—Effective Date

As indicated earlier, AASHTO and many of the DOTs responding to the NPRM identified the 2-year time requirement to establish the Metropolitan Area real-time information program to be unattainable. The rule now allows 4-years for establishment of the program in Interstate routes in Metropolitan Areas.

Section 511.315 Program Administration

Section 511.315 concerns compliance with the rule and the ability for FHWA to withhold highway trust funds based on compliance. Many DOTs were concerned about that possibility and wanted to know more about how compliance would be assessed and judged. As stated previously, § 511.311(b) of the rule has been edited to provide additional parameters regarding data quality and completeness, and to include language that describes the compliance verification processes to be applied in each State, as agreed between the State and FHWA. Section 511.315 states that procedures normally available to FHWA for Federal-aid actions are also applicable to actions related to the Real-Time System Management Information Program. Paragraph (a) of § 511.315 has been deleted because the subsection presented a potential ambiguity or contradiction in requiring compliance prior to approving projects to establish the Real-Time System Management Information Program. The proposed § 511.315(a) provisions are included in the remaining paragraph of § 511.315 by including a reference to ITS project administration contained in 23 CFR 940.13.

Request for Comments

While the FHWA is issuing this final rule, which will become effective on the dates noted above, the FHWA is also seeking additional comments relating to the costs and benefits of the Real-Time System Management Information Program and general information about current and planned programs. Although the Regulatory Cost Analysis found in the docket for this rulemaking attempts to capture the scope of costs and benefits associated with this rule, it is challenging to determine a comprehensive picture of costs and benefits given the flexibility of approaches that can be used and the limitations of the current studies.

The FHWA seeks comments related to the following:

(1) What are the costs and benefits of each individual provision required under rule? If some provisions have net costs, would certain modifications to those provisions lead to net benefits?

(2) What are the impacts of requiring these provisions on States and Metropolitan Areas (do some States and Metropolitan Areas realize net costs instead of net benefits)? If some States and Metropolitan Areas realize net costs, would certain modifications to provisions ensure net benefits?

(3) Is there a specific, alternative approach to calculating costs and benefits that would be more appropriate than the current use of the Atlanta Navigator Study?

(4) Although information dissemination to the public is not within scope of this rule, it is important to understand how information is typically disseminated so that the technologies used to collect and monitor data is compatible with technologies used to disseminate this information. This is especially important to keep up with new technological advances and to ensure that States use the most effective, low cost methods to both collect and disseminate information.

(A) What technologies will States use to collect and monitor information under this rule?

(B) What technologies are States planning to use to disseminate this information or what are they already using?

(C) Do the technologies States plan to use present any interoperability issues? Do they allow for use of advanced technologies that could be the most cost-effective means of collecting and disseminating this information?

(D) Are there any structural impediments to using low-cost advanced technologies in the future given the provisions and specifications contained in this rule?

(E) Given the research investment into wireless communications systems in the 5.9 GHz spectrum for Intelligent Transportation Systems applications, to what extent could systems in this spectrum also be used to fulfill the requirements of this rule and/or enable other applications?

(F) Given that there are legacy technologies in place now, and that there are new technologies on the horizon that are being adopted, how can we ensure that investments made today to comply with this rule are sustainable over the long term?

(5) This rule defines *Metropolitan Areas* to mean the geographic areas designated as Metropolitan Statistical Areas by the Office of Management and Budget with a population exceeding

1,000,000 inhabitants. Is this population criterion appropriate, rather than considering traffic, commuting times, or other considerations?

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this rule is an economically significant rulemaking action within the meaning of Executive Order 12866 and is a significant rulemaking action within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. This rule establishes provisions and parameters for States to implement real-time monitoring of the transportation system as mandated in section 1201 of SAFETEA-LU. The Real-Time System Management Information Program is a newly created and complex program, receiving no dedicated Federal funding. This action is considered significant because of the substantial State and local government, and public interest in the information products enabled through this program.

This rule does not adversely affect, in a material way, any sector of the economy. This rule sets forth provisions and parameters for State DOTs to implement on Interstate highways and maintain from 2010 until 2019 an effective Real-Time System Management Information Program, which will result in some cost impacts to States or Metropolitan Planning Organizations (MPOs). This period would reflect the establishment of real-time information programs plus a 7-year period of operation. The 7-year period of operation assumes that equipment and supporting material for the real-time information program is fully replaceable after the operational life cycle. The FHWA has conducted a cost analysis identifying each of the proposed regulatory changes that would have a significant cost impact for MPOs or DOTs. This cost analysis is included as a separate document, entitled "Regulatory Cost Analysis of Proposed Rulemaking," and is available for review in the docket. Based on the cost analysis, FHWA estimates that the net present value of the estimated costs and benefits through 2021 represents at least a \$315 million benefit to American travelers and taxpayers, corresponding to a benefit-cost ratio of 1.3. In addition, the DOTs have the flexibility to use most other Federal highway dollars including Congestion Mitigation and Air Quality (CMAQ) program and Surface Transportation Program (STP) funds for real-time monitoring program

implementation. Additionally, State Planning and Research funds can be applied fully towards the planning of real-time monitoring projects.

Based on the annual costs and the annual benefits noted above, the following table summarizes the annualized costs, benefits, and net

benefits (in million \$) at discount rates of 3 percent and 7 percent.

3%	
NPV Costs	\$1,404.62
NPV Benefits	\$1,765.04
Annualized Costs	\$141.11
Annualized Benefits	\$177.32
Annualized Net Benefits	\$36.21
7%	
NPV Costs	\$1,158.50
NPV Benefits	\$1,289.20
Annualized Costs	\$145.86
Annualized Benefits	\$162.31
Annualized Net Benefits	\$16.45

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) FHWA has evaluated the effects of this action on small entities. The FHWA has determined that States and MPOs are not included in the definition of small entity set forth in 5 U.S.C. 601. Small governmental jurisdictions are limited to representations of populations of less than 50,000. MPOs, by definition, represent urbanized areas having a minimum population of 50,000. The FHWA certifies that this action does not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 1041-4; 109 Stat. 48) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by States, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation to \$141.3 million in 2008 dollars). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least

burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

This final rule does not impose unfunded mandates as defined by the UMRA. The definition of "Federal Mandate" in the UMRA excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. (2 U.S.C. 658, 1502) The Federal-aid highway program permits this type of flexibility. Conditions for obtaining Federal grant funds, including new conditions on existing grant programs, are not considered Federal Mandates under the law. States have the flexibility to offset the costs of this statutory requirement by amending their responsibilities for financing and carrying out their program, and any additional costs resulting from this Federal action can be offset by changes in State or local policies.

The effects of this rule are discussed earlier in the preamble and in the "Regulatory Cost Analysis of Proposed Rulemaking" contained in the docket for this rulemaking. The FHWA has taken care to craft the final rule for this

statutory requirement in such a way that offers States broad flexibility to minimize costs of compliance with the standard. Because the rule is neither centered on a particular technology nor on a technology-dependent application, these documents consider a number of alternatives and provide a number of technological choices. This rule provides a phased implementation approach and limits the content requirements for a real-time information system only to those needed to provide congestion relief. Additionally, while no new funding is available for this program, to the extent that the final rule will require expenditures by State, local, or tribal governments, these activities will not be unfunded mandates because States and MPOs are afforded flexibility to use their National Highway System, CMAQ, and STP Federal-aid apportionments for activities related to the planning and deployment of real-time monitoring elements that advance the goals of the Real-Time System Management Information Program. How the States use these funds is only limited by the statutory and regulatory grant requirements and conditions. As such, the agency has chosen the most cost-effective alternative that achieves the objectives of the rulemaking.

Executive Order 13132 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has determined that this action does not have sufficient

federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. The FHWA contacted the National Governors' Association in writing about this determination. The National Governors' Association did not respond.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (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 rule contains a requirement for data and information to be collected and maintained in the support of operational decisions that affect the safety and mobility of the traveling public related to information on construction activities, including implementing and removing lane closures; roadway or lane blocking traffic incident information; roadway or lane blocking roadway weather conditions; and calculated travel times along highway segments. In order to streamline the process, FHWA requested that OMB approve a single information collection clearance for all of the data in this regulation. The Real-Time System Management Information Program supports the collection of transportation system data, including the use of automated methods, with the transportation system data available for other use. The Real-Time System Management Information Program itself does not produce informational or reporting products that are required by the U.S. Department of Transportation or other entities in the Federal Government.

Commenters to this information collection include DOTs from all 50 States, Puerto Rico, and the District of Columbia. The FHWA estimates that 17 States presently do not appear to provide real-time information on a continual basis to the public or to other States using conventional information dissemination technologies.² The FHWA estimates that a total of 148,920 burden hours per year would be imposed on these non-Federal entities to provide all the required information

to comply with the proposed regulation requirements for real-time information programs.³

Further, there are 36 States operating at least one 511 traveler information dissemination service that provide nearly all of the information categories identified in this proposed regulation.⁴ The automated systems that gather the input for delivery for 511 also convey information via Dynamic Message Signs (DMS) for en-route travelers. The use of DMS is common for conveying travel time information messages. Based on known reports for 511 delivery services and for travel time messages on DMS in metropolitan areas⁵ a more accurate calculation of the burden hours is possible. For all 36 States known to provide automated real-time traveler information: All 36 States provide construction activities information; all 36 States provide roadway incident information; and 31 States provide roadway weather observations. Of the 49 metropolitan areas currently subject to the provisions of travel time information required by this regulation, 33 provide travel time information on highway segments.

The estimated total burden to provide the additional information needed to attain full compliance with the proposed regulation includes 148,920 burden hours for States with no observable real-time information capability, plus 140,160 burden hours for subject metropolitan areas to deliver travel time information, plus 43,800 burden hours for States with real-time information capabilities to deliver weather observation updates. The total estimated burden, therefore, is 332,880 hours for automated sources to deliver the information categories identified in this regulation.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that the establishment of the Real-Time System Management Information Program, as required by the Congress in SAFETEA-LU, may yield a \$384 million benefit from the reduction of greenhouse gas emissions and also

from reductions of fuel consumption⁶ and has determined that this rule will not significantly affect the quality of the human environment. The promulgation of regulations has been identified as a categorical exclusion under 23 CFR 771.117(c)(20).

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 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)

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this action would not cause any environmental risk to health or safety that might disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that this action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The final rule addresses provisions and parameters for the Real-Time System Management Information Program and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use dated May 18, 2001.

⁶ This estimated benefit is documented in Table 1 on Page 14 of the *Regulatory Benefit-Cost Analysis of Proposed Rulemaking* included in this docket.

² Based upon the table "Freeway Miles Under Traffic Surveillance" from the 2007 Metropolitan Summary survey. This table is retrievable from the ITS Deployment Statistics Web site, available at the following URL: <http://www.itsdeployment.gov/Results.asp?year=2007&rpt=M&filter=1&ID=307>.

³ Burden hour calculation based on 8,760 hours per year multiplied by the number of locations (17).

⁴ Based upon the "Locations with 511 Services" information available at the following URL: <http://www.ops.fhwa.dot.gov/511/>. As of July 2009 there are 39 known 511 systems in operation.

⁵ Based on the page "Travel times on DMS Status," available at the following URL: <http://www.ops.fhwa.dot.gov/travelinfo/dms/>.

We have determined that the final rule is not a significant energy action under that order since it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12898 (Environmental Justice)

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this final rule does not raise any environmental justice issues.

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 511

Grant programs—transportation, Highway traffic safety, Highways and roads, Transportation, Travel, Travel restrictions.

Issued on: October 22, 2010.

Victor M. Mendez,
Administrator.

■ In consideration of the foregoing, FHWA adds a new part 511, to Title 23, Code of Federal Regulations, to read as follows:

PART 511—REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Real-Time System Management Information Program

Sec.

- 511.301 Purpose.
- 511.303 Definitions.
- 511.305 Policy.
- 511.307 Eligibility for Federal funding.
- 511.309 Provisions for traffic and travel conditions reporting.
- 511.311 Real-time information program establishment.
- 511.313 Metropolitan area real-time information program supplement.
- 511.315 Program administration.

Authority: Section 1201, Pub. L. 109–59; 23 U.S.C. 315; 23 U.S.C. 120; 49 CFR 1.48.

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Real-Time System Management Information Program

§ 511.301 Purpose.

The purpose of this part is to establish the provisions and parameters for the Real-Time System Management Information Program. These provisions implement Subsections 1201(a)(1), (a)(2), and (c)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; 119 Stat. 1144), pertaining to Congestion Relief.

§ 511.303 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this subpart. As used in this part:

Accuracy means the measure or degree of agreement between a data value or set of values and a source assumed to be correct.

Availability means the degree to which data values are present in the attributes (e.g., speed and travel time are attributes of traffic) that require them. Availability is typically described in terms of percentages or number of data values.

Congestion means the level at which transportation system performance is unacceptable due to excessive travel times and delays.

Data quality means the fitness of data for all purposes that require such data.

Full construction activities mean roadway construction or maintenance activities that affect travel conditions by closing and reopening roadways or lanes.

Metropolitan areas means the geographic areas designated as Metropolitan Statistical Areas by the Office of Management and Budget in the Executive Office of the President with a population exceeding 1,000,000 inhabitants.

Real-time information program means the program by which States gather and make available the data for traffic and travel conditions. Such means may involve State-only activity (including cooperative activities engaging multiple State agencies), State partnership with commercial providers of value-added information products, or other effective means that enable the State to satisfy the provisions for traffic and travel time conditions reporting stated in this section.

Routes of significance are non-Interstate roadways in metropolitan areas that are designated by States as meriting the collection and provision of information related to traffic and travel conditions. Factors to be considered in designating routes of significance include roadway safety (e.g., crash rate, routes affected by environmental events), public safety (e.g., routes used for evacuations), economic productivity, severity and frequency of congestion, and utility of the highway to serve as a diversion route for congestion locations. All public roadways including arterial highways, toll facilities and other facilities that apply end user pricing mechanisms shall be considered when designating routes of significance. In identifying these routes, States shall apply the collaborative practices and procedures that are used for compliance with 23 CFR part 940 and 23 CFR part 420.

Statewide incident reporting system means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate. This definition is consistent with Public Law 109–59; 119 Stat. 1144, Section 1201(f).

Timeliness means the degree to which data values or a set of values are provided at the time required or specified.

Traffic and travel conditions means the characteristics that the traveling public experiences. Traffic and travel conditions include, but are not limited to, the following characteristics:

(1) Road or lane closures because of construction, traffic incidents, or other events;

(2) Roadway weather or other environmental conditions restricting or adversely affecting travel; and

(3) Travel times or speeds on limited access roadways in metropolitan areas that experience recurring congestion.

Validity means the degree to which data values fall within the respective domain of acceptable values.

Value-added information products means crafted products intended for commercial use, for sale to a customer base, or for other commercial enterprise purposes. These products may be derived from information gathered by States and may be created from other party or proprietary sources. These products may be created using the unique means of the value-added information provider.

§ 511.305 Policy.

This part establishes the provisions and parameters for the Real-Time System Management Information Program for State DOTs, other responsible agencies, and partnerships with other commercial entities in establishing real-time information programs that provide accessibility to traffic and travel conditions information by other public agencies, the traveling public, and by other parties who may deliver value-added information products.

§ 511.307 Eligibility for Federal funding.

(a) Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under Title 23 U.S.C. sections 104(b)(1), also known as National Highway System funds, 104(b)(2), also known as CMAQ Improvement funds, and 104(b)(3), also known as STP funds, for activities relating to the planning, deployment and operation, including preventative maintenance, of real-time monitoring elements that advance the goals and purposes of the Real-Time System Management Information Program. The SPC funds, apportioned according to 23 U.S.C. 505(a), may be applied to the development and implementation of a real-time information program.

(b) Those project applications to establish a real-time information program solely for Interstate System highways are entitled to a Federal share of 90 percent of the total project cost, pursuant to 23 U.S.C. 120(a). Those project applications to establish a real-time information program for non-Interstate highways are entitled to a Federal share of 80 percent of the total project cost, as per 23 U.S.C. 120(b).

§ 511.309 Provisions for traffic and travel conditions reporting.

(a) Minimum requirements for traffic and travel conditions made available by real-time information programs are:

(1) *Construction activities.* The timeliness for the availability of information about full construction activities that close or reopen roadways or lanes will be 20 minutes or less from the time of the closure for highways outside of Metropolitan Areas. For roadways within Metropolitan Areas, the timeliness for the availability of information about full construction activities that close or reopen roadways or lanes will be 10 minutes or less from the time of the closure or reopening. Short-term or intermittent lane closures of limited duration that are less than the required reporting times are not included as a minimum requirement under this section.

(2) *Roadway or lane blocking incidents.* The timeliness for the availability of information related to roadway or lane blocking traffic incidents will be 20 minutes or less from the time that the incident is verified for highways outside of Metropolitan Areas. For roadways within Metropolitan Areas, the timeliness for the availability of information related to roadway or lane blocking traffic incidents will be 10 minutes or less from the time that the incident is verified.

(3) *Roadway weather observations.* The timeliness for the availability of information about hazardous driving conditions and roadway or lane closures or blockages because of adverse weather conditions will be 20 minutes or less from the time the hazardous conditions, blockage, or closure is observed.

(4) *Travel time information.* The timeliness for the availability of travel time information along limited access roadway segments within Metropolitan Areas, as defined under this subpart, will be 10 minutes or less from the time that the travel time calculation is completed.

(5) *Information accuracy.* The designed accuracy for a real-time information program shall be 85 percent accurate at a minimum, or have a maximum error rate of 15 percent.

(6) *Information availability.* The designed availability for a real-time information program shall be 90 percent available at a minimum.

(b) Real-time information programs may be established using legacy monitoring mechanisms applied to the highways, using a statewide incident reporting system, using new monitoring mechanisms applied to the highways, using value-added information products, or using a combination of monitoring mechanisms and value-added information products.

§ 511.311 Real-time information program establishment.

(a) *Requirement.* States shall establish real-time information programs that are consistent with the parameters defined under § 511.309. The real-time information program shall be established to take advantage of the existing traffic and travel condition monitoring capabilities, and build upon them where applicable. The real-time information program shall include traffic and travel condition information for, as a minimum, all the Interstate highways operated by the State. In addition, the real-time information program shall complement current transportation performance reporting

systems by making it easier to gather or enhance required information.

(b) *Data quality.* States shall develop the methods by which data quality can be ensured to the data consumers. The criteria for defining the validity of traffic and travel conditions made available from real-time information programs shall be established by the States in collaboration with their partners for establishing the programs. States shall receive FHWA's concurrence that the selected methods provide reasonable checks of the quality of the information made available by the real-time information program. In requesting FHWA's concurrence, the State shall demonstrate to FHWA how the selected methods gauge the accuracy and availability of the real-time information and the remedial actions if the information quality falls below the levels described in § 511.309(a)(5) and § 511.309(a)(6).

(c) *Participation.* The establishment, or the enhancement, of a real-time information program should include participation from the following agencies: Highway agencies; public safety agencies (e.g., police, fire, emergency/medical); transit operators; and other operating agencies necessary to sustain mobility through the region and/or the metropolitan area. Nothing in this subpart is intended to alter the existing relationships among State, regional, and local agencies.

(d) *Update of Regional ITS Architecture.* All States and regions that have created a Regional ITS Architecture in accordance with Section 940 in Title 23 CFR shall evaluate their Regional ITS Architectures to determine whether the Regional ITS Architectures explicitly address real-time highway and transit information needs and the methods needed to meet such needs. Traffic and travel conditions monitoring needs for all Interstate system highways shall be considered. If necessary, the Regional ITS Architectures shall be updated to address coverage, monitoring systems, data fusion and archiving, and accessibility to highway and transit information for other States and for value added information product providers. The Regional ITS Architecture shall feature the components and functionality of the real-time information program.

(e) *Effective date.* Establishment of the real-time information program for traffic and travel conditions on the Interstate system highways shall be completed no later than November 8, 2014.

§ 511.313 Metropolitan Area real-time information program supplement.

(a) *Applicability.* Metropolitan Areas as defined under this subpart.

(b) *Requirement.* Metropolitan Areas shall establish a real-time information program for traffic and travel conditions reporting with the same provisions described in § 511.311.

(c) *Routes of significance.* States shall designate metropolitan areas, non-Interstate highways that are routes of significance as defined under this subpart. In identifying the metropolitan routes of significance, States shall collaborate with local or regional agencies using existing coordination methods. Nothing in this subpart is intended to alter the existing relationships among State, regional, and local agencies.

(d) *Effective date.* Establishment of the real-time information program for traffic and travel conditions reporting along the Metropolitan Area Interstate system highways shall be completed no later than November 8, 2014. Establishment of the real-time information program for traffic and travel conditions reporting along the State-designated metropolitan area routes of significance shall be completed no later than November 8, 2016.

§ 511.315 Program administration.

Compliance with this subpart will be monitored under Federal-aid oversight procedures as provided under 23 U.S.C. 106 and 133, 23 CFR 1.36, and 23 CFR 940.13.

[FR Doc. 2010-27987 Filed 11-5-10; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Part 1926**

[Docket No. OSHA-2007-0066]

RIN 1218-AC01

Cranes and Derricks in Construction; Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; notice of the Office of Management and Budget's (OMB) approval of information collection requirements.

SUMMARY: On August 9, 2010, OSHA published a final rule revising the Cranes and Derricks Standard and related sections of the Construction Standard to update and specify industry work practices necessary to protect employees during the use of cranes and derricks in construction. That final standard also addressed advances in the designs of cranes and derricks, related hazards, and the qualifications of employees needed to operate them safely. Those requirements contained information collection requirements for which approval was needed from the Office of Management and Budget. This document announces that OMB has approved those collection of information requirements and makes the appropriate regulatory change to reflect that approval. The OMB approval number is 1218-0261.

DATES: Effective November 8, 2010.

FOR FURTHER INFORMATION CONTACT:

Todd Owen, OSHA, Directorate of Standards and Guidance, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION: OSHA published a final rule for the Cranes and Derricks in Construction standard on August 9, 2010 (75 FR 47905-48177), after determining that hazards related to cranes and derricks used in construction pose a significant risk of injury or death to employees in the workplace. These requirements are necessary to provide protection from these hazards. The final rule becomes effective on November 8, 2010. As required by the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3501-3520), the **Federal Register** notice for the Cranes and Derricks in Construction final rule states that employers do not have to comply with the collection of information requirements until OMB approves those collection of information requirements and the Department of Labor publishes a notice in the **Federal Register** announcing this approval and the control number assigned by OMB to the Cranes and Derricks in Construction's collection of information requirements.

Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) The collection of information displays a current valid OMB control number and (2) the agency informs members of the public required to respond to the collection of information that they are not required to do so unless the agency displays a currently valid OMB control number for the collection of information.

On August 9, 2010, the Department of Labor submitted the Cranes and Derricks in Construction information collection request for the final rule to OMB for approval in accordance with PRA-95. On November 1, 2010, OMB approved the collections of information contained in the final rule and assigned these collections of information OMB Control Number 1218-0261, titled "Cranes and Derricks in Construction (29 CFR part 1926, subpart CC)." The approval for collecting the information expires on November 30, 2013.

The final Cranes and Derricks standard imposes new information collection requirements for purposes of PRA-95. These requirements impose a duty to produce and maintain records on employers that implement controls and take other measures to protect workers from hazards related to cranes and derricks used in construction. Accordingly, construction businesses with employees who operate or work in the vicinity of cranes and derricks must have, as applicable, the following documents on file and available at the job site: Equipment ratings, employee training records, written authorizations from qualified individuals, and qualification program audits. During an inspection, OSHA will have access to the records to determine compliance under conditions specified by the standard. An employer's failure to generate and disclose the information required in this standard will affect significantly the Agency's effort to control and reduce injuries and fatalities related to the use of cranes and derricks in construction.

The table below identifies the new collections of information contained in the final rule.

COLLECTION OF INFORMATION REQUIREMENTS IN THE FINAL STANDARD

29 CFR 1926.1402(c)(2)
29 CFR 1926.1403(b) and 1926.1406(b)
29 CFR 1926.1404(f)(2)
29 CFR 1926.1404(j)
29 CFR 1926.1404(m)(1)(i)

29 CFR 1926.1427(c)(1)(ii).
29 CFR 1926.1427(c)(2)(i).
29 CFR 1926.1427(c)(5)(ii) and (c)(5)(iv).
29 CFR 1926.1427(c)(5)(iii).
29 CFR 1926.1427(h)(1)(i) and (ii).