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November 23, 2010

The Honorable John D. Rockefeller IV  
Chairman  
The Honorable Kay Bailey Hutchison  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable James L. Oberstar  
Chairman  
The Honorable John L. Mica  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: *Department of Transportation, Federal Highway Administration: Real-Time System Management Information Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Highway Administration (FHWA), entitled “Real-Time System Management Information Program” (RIN: 2125-AF19). We received the rule on November 9, 2010. It was published in the *Federal Register* as a final rule; request for comments on November 8, 2010. 75 Fed. Reg. 68,418.

The final rule establishes a Real-Time System Management Information Program that provides the capacity to monitor in real-time the traffic and travel conditions of the major highways of the United States in all states and to share these data with state and local governments and the traveling public. The rule establishes minimum parameters and requirements for states to make available and share information about traffic and travel conditions via real-time information programs.

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on November 8, 2010, and received November 9, 2010. It has a stated effective date of December 23, 2010. However, FWHA states in the rule that establishment of the real-time information program for traffic and travel conditions

reporting along the interstate system highways is to be completed by November 8, 2014, and along state-designated metropolitan area routes of significance is to be completed by November 8, 2016. Therefore, to the extent that provisions of this rule have a stated effective date of December 23, 2010, this rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of the FHWA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that FHWA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Jennifer A. Outhouse  
Regulations Officer, Federal  
Highway Administration  
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
FEDERAL HIGHWAY ADMINISTRATION  
ENTITLED  
"REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM"  
(RIN: 2125-AF19)

(i) Cost-benefit analysis

FHWA analyzed the costs and benefits of this final rule. FHWA determined that this final rule will not adversely affect, in a material way, any sector of the economy and 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.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

FHWA determined that this rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

FHWA determined that this final rule will not impose unfunded mandates under the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On May 4, 2006, FHWA published a request for comments and on January 4, 2009, a notice of proposed rulemaking in relation to this rule. 71 Fed. Reg. 26,399; 74 Fed. Reg. 1993. FHWA received 35 comments to which it responded in this final rule. As part of this final rule, FHWA is also seeking additional comments relating to the costs and benefits of the Real-Time Systems Management Information Program and general information about current and planned programs, due by December 23, 2010.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

FHWA determined that this rule contains an information collection requirement under the Act, which it submitted to the Office of Management and Budget (OMB)

for review. FHWA estimated that the total burden of this information collection requirement is 332,880 hours.

#### Statutory authorization for the rule

FHWA promulgated this final rule under the authority of sections 120 and 315 of title 23, United States Code, and section 1201 of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Pub. L. No. 109-59, 119 Stat. 1144, 1196–1198 (Aug. 10, 2005).

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347

FHWA determined that this final rule will not significantly affect the quality of the human environment. In addition, FHWA determined that it may yield a \$384 million benefit from the reduction of greenhouse gas emissions and also from reductions of fuel consumption.

#### Executive Order No. 12,630 (Taking of Private Property)

FHWA stated that it does not anticipate that this final rule will affect a taking of private property or otherwise have taking implications under the Order.

#### Executive Order No. 12,866 (Regulatory Planning and Review)

FHWA determined that this rule is an economically significant rule under the Order. OMB reviewed this rule.

#### Executive Order No. 13,898 (Environmental Justice)

FHWA determined that this final rule does not raise any environmental justice issues.

#### Executive Order No. 12,988 (Civil Justice Reform)

FHWA determined that this final rule meets applicable standards under the Order to minimize litigation, eliminate ambiguity, and reduce burden.

#### Executive Order No. 13,045 (Protection of Children)

FHWA determined that this final rule will not cause any environmental risk to health or safety that might disproportionately affect children.

#### Executive Order No. 13,132 (Federalism)

FHWA determined that this action will not have sufficient federalism implications to warrant the preparation of a federalism assessment. FHWA also determined that this

rule will not preempt any state law or regulation or affect the states' ability to discharge traditional state governmental functions.

Executive Order No. 13,175 (Tribal Consultation)

FHWA stated that it believes this final rule will not have substantial direct effects on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws.

Executive Order No. 13,211 (Energy Effects)

FHWA determined that this final rule is not a significant energy action under the Order because it is not likely to have a significant adverse effect on the supply distribution, or use of energy.