# Greenhouse Gas Emissions Measurement/Assessing Performance of the National Highway System: Federal Highway Administration Rule Repealing State Department of Transportation/Metro Planning Organization's Reporting Requirement

**Walter Wright, Jr.**
wwright@mwlaw.com
(501) 688.8839

05/02/2025

The Federal Highway Administration ("FHA") published a final rule that repeals the requirement that state Departments of Transportation ("DOTs") and Metropolitan Planning Organizations ("MPOs") undertake certain greenhouse gas ("GHG") related activities. See Docket No. FHWA–2025–0001.

The final rule is described as a "deregulatory action" that would repeal the requirement that state DOTs and MPOs:

…assess the performance of the National Highway System (NHS) under the National Highway Performance Program (NHPP) by establishing declining CO2 emissions targets and measuring and reporting on the percent change in tailpipe CO2 emissions on the NHS from the calendar year 2022 (also referred to as the Greenhouse Gas or GHG measure).

FHA states as a rationale for the repeal that it will alleviate a burden on State DOTs and MPOs that:

- Would have imposed costs with no predictable level of benefits.
- The rule has no clear legal authority.

By way of qualification, the FHA states in the preamble that the final rule does not prohibit State DOTs and MPOs from choosing voluntarily to measure and assess CO2 on the NHS or other roads.

The rule being repealed was promulgated during the Biden Administration. The Biden Administration cited transportation as a significant source of GHG emissions in the United States. Organizations such as the Sierra Club have argued that states play an important role in reducing such emissions by investing in sustainable transportation projects such as passenger rail, public transit, and quality bicycle and pedestrian paths.

The rule being repealed is found at 23 C.F.R. Part 490.

A copy of the final rule can be downloaded here.