

GHG PERFORMANCE MEASURE FOR TRANSPORTATION

FHWA Diverting Funds Away from Roads and Bridges

Action Needed:

House and Senate: Tell FHWA to follow congressional intent and refrain from implementing proposals that were rejected by Congress.

Background:

On July 15, 2022, the Federal Highway Administration (FHWA) issued a proposed rule to establish a greenhouse gas performance measure. The greenhouse gas performance measure would be a one-size-fits-all mandate that would limit a state's ability to choose transportation projects that fit its unique needs. This rule could divert highway dollars that states receive away from road and bridge projects and towards bike trails, pedestrian walkways, transit system maintenance, and the procurement of buses.

The GHG performance measure was not included in the Infrastructure Investment and Jobs Act (IIJA) and FHWA is once again relitigating ideas that Congress rejected multiple times.

AGC Message:

- **FHWA Lacks Congressional Authority to Establish a Greenhouse Gas Performance Measure.** There is no law that either explicitly or implicitly grants FHWA the authority to undertake this rulemaking. In fact, Congress considered granting them the authority and ultimately rejected it multiple times over multiple years.
- **A Greenhouse Gas Performance Measure will Limit a State's Options to Connect People to Jobs, Healthcare, and Education.** The transportation needs faced by Americans living in urban areas are not the same as those living in rural parts of the country. While forcing a state like New York to build a bike path instead of adding a new roadway lane might work in New York City – it is not realistic in a state like Alaska or even in areas in upstate New York.
- **FHWA Needs to Provide Greater Flexibility to States and MPOs to Reduce Greenhouse Gas Emissions and Exempt Low-Population Density States from this Requirement.** FHWA is treating a state like Wyoming, with much lower greenhouse gas emissions, the same way it treats a state like California, which has much higher greenhouse gas emissions. FHWA should take a more targeted approach and focus on the five to ten states with the highest GHG emissions.