GHG PERFORMANCE MEASURES FOR TRANSPORTATION

FHWA Proposes Rule on Greenhouse Gas (GHG) Emissions

Background:

On July 15, 2022, the Federal Highway Administration (FHWA) proposed a 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.

FHWA should follow congressional intent and refrain from reviving policy ideas that Congress considered and ultimately rejected.

Action Needed:

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

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.

- **Congress Repeatedly Debated Authorizing FHWA to Create a Greenhouse Gas Performance Measure but Repeatedly Rejected It.** During debate of the Bipartisan Infrastructure Law (BIL) and prior surface transportation laws, Congress considered proposals that would provide FHWA with the authority to create a performance measure on greenhouse gas emissions but ultimately rejected them.

- **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.

- **States and Metropolitan Planning Organizations (MPOs) are Already Taking Steps to Reduce Greenhouse Gas Emissions and Improve Air Quality.**

- **FHWA Needs to Provide Greater Flexibility to States and MPOs to Reduce Greenhouse Gas Emissions and Exempt Low-Population Density States from this Requirement.**

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