Manual, Volume II: ''EDGAR Filing,'' Version 74 (March 2025). All EDGAR material referenced in this paragraph is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for inspection at the Commission and at the National Archives and Records Administration (NARA). The EDGAR Filer Manual is available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549; (202) 551–3900; *Library@sec.gov,* on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission's Public Reference Room. The EDGAR Filer Manual may also be obtained from *https://www.sec.gov/edgar/filerinformation/current-edgar-filer-manual.* For information on the availability of the EDGAR Filer Manual at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

By the Commission.

Dated: March 17, 2025.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2025–06698 Filed 4–17–25; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA–2025–0001]

RIN 2125–AG16

National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule repeals a requirement that State departments of transportation (State DOT) and metropolitan planning organizations (MPO) establish declining carbon dioxide (CO_2) targets for the greenhouse gas (GHG) measure and report on progress toward the achievement of the target.

DATES: This final rule is effective May 19, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Gary A. Jensen, Office of Natural Environment, (202) 366–2048, or via email at *Gary.Jensen@dot.gov,* or Mr. Lev Gabrilovich, Office of the Chief Counsel, (202) 366–3813, or via email at *Lev.Gabrilovich@dot.gov.* Office hours are from 8 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Deregulatory Action

The purpose of this deregulatory action is to 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 CO_2 emissions targets and measuring and reporting on the percent change in tailpipe CO_2 emissions on the NHS from the calendar year 2022 (also referred to as the Greenhouse Gas or GHG measure). This repeal will alleviate a burden on State DOTs and MPOs that, had it been implemented, would have imposed costs with no predictable level of benefits and without clear legal authority. This final rule does not prohibit State DOTs and MPOs from choosing voluntarily to measure and assess CO_2 on the NHS or other roads.

B. Summary of the Deregulatory Action in Question

This final rule repeals the GHG measure. By repealing this measure, FHWA will remove regulations that, if they had been implemented, would have required State DOTs and MPOs to undertake administrative activities to establish declining GHG targets, calculate their progress toward their selected targets, report to FHWA, and determine a plan of action to make progress toward their selected targets if they fail to make significant progress during a performance period.

C. Costs and Benefits

This final rule is a deregulatory action. Because the final rule establishing the GHG measure was never implemented, States and MPOs incurred minimal, if any, costs to implement the GHG measure.[1] For these reasons, cost savings are not quantified. However, repealing this measure would have the qualitative benefit of streamlining FHWA regulations by removing regulations that were not authorized by statute from the Code of Federal Regulations (CFR). This deregulatory action would also have the qualitative benefit of providing regulatory certainty to State DOTs and MPOs by aligning the CFR with recent court decisions discussed below.

II. Regulatory History

The Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141) transformed the Federal-aid Highway Program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. The Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) continued these requirements. Performance management increases the accountability and transparency of the Federal-aid Highway Program and provides a framework to support improved investment decision making through a focus on performance outcomes for key national transportation goals.

FHWA conducted several rulemakings implementing the MAP–21 and FAST Act performance management framework. Most relevant to this rule are three related national performance management measure rulemakings in which FHWA established various measures for State DOTs and MPOs to use to assess performance, found at 23 CFR part 490. The first rulemaking focused on Safety Performance Management (''PM1''), and a final rule published on March 15, 2016 (81 FR 13882) established performance measures for State DOTs to use to carry out the Highway Safety Improvement Program (HSIP). The second rulemaking on Infrastructure Performance Management (''PM2'') resulted in a final rule published on January 18, 2017 (82 FR 5886), which established performance measures for assessing pavement condition and bridge condition for the NHPP. The third rulemaking, System Performance Management (''PM3''), established measures for State DOTs and MPOs to use to assess the performance of the Interstate and non-Interstate NHS for the purpose of carrying out the NHPP; to assess freight movement on the Interstate System; and to assess traffic congestion and on-road mobile source emissions for the purpose of carrying out the Congestion Mitigation and Air Quality Improvement (CMAQ) Program.

[1] However, had the rule been implemented, FHWA estimates that this deregulatory action would have resulted in cost savings equivalent to the estimated costs of the rule over a 10-year period (*i.e.,* $10.8 million, discounted at 7 percent, or $12.7 million, discounted at 3 percent) (2020 dollars). This would have equated to estimated annualized cost savings of $1.5 million (2020 dollars). Costs associated with the establishment of the GHG measure can be found in the rulemaking docket for that action at: *www.regulations.gov/document/FHWA-2021-0004-39830.*

In the preamble to the PM3 NPRM, FHWA sought public comment on whether and how to establish a CO_2 emissions measure in the final rule. FHWA published the PM3 final rule on January 18, 2017 (82 FR 5970) (''2017 GHG rule''), and included the first iteration of a GHG measure, which required State DOTs and MPOs to measure the total annual tons of CO_2 emissions from all on-road mobile sources.

On October 5, 2017 (82 FR 46427), FHWA proposed to repeal the PM3 final rule's GHG measure in light of policy direction to review existing regulations and determine whether changes would be appropriate to eliminate duplicative regulations, reduce costs, and streamline regulatory processes. After considering the public comments received, on May 31, 2018 (83 FR 24920), FHWA repealed the PM3 final rule's GHG measure, effective on July 2, 2018 (''2018 GHG repeal''). FHWA identified three main reasons for the repeal: (1) reconsideration of the underlying legal authority; (2) the cost of the GHG measure in relation to the lack of demonstrated benefits; and (3) potential duplication of information produced by the GHG measure and information produced by other initiatives related to measuring CO_2 emissions. All other performance management measures established by the PM3 final rule remain in place.

FHWA published a NPRM on July 15, 2022 (87 FR 42401), proposing to reestablish the GHG measure. After reconsidering the arguments for the 2018 GHG repeal, FHWA again proposed to require State DOTs and MPOs that have NHS mileage within their State geographic boundaries and metropolitan planning area boundaries, respectively, to establish, not only targets for reducing CO_2 emissions generated by on-road mobile sources, but *declining* targets—an even more burdensome requirement than 2017 GHG rule. FHWA explained in the preamble that the reestablishment of the GHG measure was intended to advance the policy preferences outlined in two Executive Orders.[2]

FHWA issued a final rule reestablishing the GHG measure in December 2023 (''2023 GHG rule''). As it did in the 2017 GHG rule, FHWA's 2023 GHG rule relied on 23 U.S.C. 150(c)(3) as authority for the GHG measure, and concluded that the agency's determination to the contrary in the 2018 GHG repeal represented an unduly narrow view of the statute.[3] However, the 2023 GHG rule never took effect because 22 States filed lawsuits challenging the 2023 GHG rule in Federal courts located in Texas and Kentucky.[4] Those courts have since concluded the 2023 final rule is not authorized by 23 U.S.C. 150(c)(3) and that the GHG measure was promulgated in excess of FHWA's statutory authority or arbitrary and capricious.[5] Upon motions filed by DOT, the appeals were dismissed by the Courts of Appeals for both the Fifth and Sixth Circuits. There is no pending litigation, and no other party may challenge the voluntary dismissal. This final rule to repeal the GHG measure will provide regulatory certainty to State DOTs and MPOs.

After further consideration and review of the governing statutory provisions; the relevant judicial rulings; and Executive Order 14148, *Initial Rescissions of Harmful Executive Orders and Actions* (90 FR 8237), Executive Order 14154, *Unleashing American Energy* (90 FR 8353), and Executive Order 14219, *Ensuring Lawful Governance and Implementing the President's* ''*Department of Government Efficiency*'' Deregulatory Initiative (90 FR 10583), FHWA repeals the 2023 GHG rule.

III. Administrative Procedure Act

Under the Administrative Procedure Act, the requirement for prior notice and an opportunity for public comment does not apply when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' *See* 5 U.S.C. 553(b)(B). FHWA finds that notice and an opportunity for public comment are unnecessary for this rulemaking because FHWA does not have legal discretion to allow the GHG measure to become effective. Specifically, two U.S. District Courts held that FHWA exceeded its statutory authority in promulgating the 2023 GHG rule or that the rule was arbitrary and capricious, the rule has been vacated, and appeals of those decisions have been dismissed. Consequently, this rule cannot become effective, and so repealing the rule has no substantive effect on the public. Further, in light of the underlying lack of statutory authority to regulate in this area, repeal of the GHG measure is not discretionary as a matter of law and so there is no benefit to providing time for comment on the agency's course of action.[6] Therefore, FHWA finds good cause to issue this final rule without notice and an opportunity for public comment.

IV. Repeal of the GHG Measure

This final rule repeals the GHG measure adopted in the 2023 GHG rule. After reconsidering and rejecting the analysis supporting the 2018 GHG repeal, FHWA readopted the GHG measure in the 2023 GHG rule as a matter of discretion through a strained reading of statutory language found in 23 U.S.C. 150(c). Today, we stand by the best reading of the plain language of the statute, which was summarized in the preamble to the 2018 GHG repeal.[7] The statute does not address CO_2 emissions explicitly or require FHWA to include a GHG measure among the national performance measures. While the establishment of the measure may have been a matter of discretion for FHWA, its repeal is not. Rather, repeal is necessary in light of subsequent court rulings supporting the legal analysis provided in the 2018 GHG repeal. Finally, repeal of the GHG measure does not preclude State DOTs and MPOs from tracking CO_2 emissions related to their own transportation programs, or from establishing their own measures and targets outside the national performance management program.

After further consideration and review of the governing statutory provisions, and the relevant judicial rulings, FHWA has again reconsidered its interpretation of the statutory language of 23 U.S.C. 150(c)(3) and now believes the narrow construction adopted in the 2018 GHG rule is the best reading of the statute. FHWA incorporates the analysis of the 2018 GHG repeal herein by reference and

[2] *See* Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis,* and Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad.* These executive orders have since been revoked by the President on January 20, 2025, in Executive Order 14148, *Initial Rescissions of Harmful Executive Orders and Actions,* and Executive Order 14154, *Unleashing American Energy.*

[3] *See* 88 FR 85367.

[4] *See Texas* v. *USDOT,* C.A. No. 5:23–cv–304, (N.D. Tex.); *Kentucky* v. *Fed. Highway Admin.,* C.A. No. 5:23–cv–162 (W.D. Ky.).

[5] *See Texas* v. *USDOT,* 726 F. Supp. 3d 695 (N.D. Tex. 2024); *Kentucky* v. *Fed. Highway Admin.,* 728 F. Supp. 3d 501 (W.D. Ky. 2024).

[6] *See, e.g., Priests for Life* v. *U.S. Dep't of HHS,* 772 F.3d 229, 276 (D.C. Cir. 2014), *vacated and remanded on other grounds sub nom. Zubik* v. *Burwell,* 578 U.S. 403 (2016) (per curiam) (good cause existed to issue rule without notice and comment period where agency reasonably interpreted that promulgating the rule was necessary to comply with court order); *see also EME Homer City Generation, LP* v. *EPA,* 795 F.3d 118, 134–35 (D.C. Cir. 2015) (agency had good cause to issue interim rule without notice and opportunity for comments to rescind agency's prior regulatory approvals consistent with D.C. Circuit decision holding those approvals to have been erroneous; ''commentators could not have said anything during a notice and comment period that would have changed that fact.'').

[7] *See* 2018 GHG repeal, section B(1), Reconsideration of Legal Authority to Adopt GHG Measure, 83 FR 24923.

proposes to repeal the GHG measure based on the same reasoning expressed therein, as well as on the reasoning of the decisions by the Federal courts in Kentucky and Texas.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review)

The Office of Management and Budget (OMB) has determined that this final rule is a significant regulatory action within the meaning of Executive Order (E.O.) 12866 and within the meaning of DOT regulatory policies and procedures due to the significant public interest in regulations related to performance management. It is anticipated that the economic impact of this rulemaking will not meet the threshold in section 3(f)(1) of E.O. 12866 for the reasons discussed below.

Because the 2023 final rule establishing the GHG measure was never implemented, States and MPOs incurred minimal, if any, costs to implement the GHG measure.[8] For these reasons, cost savings are not quantified. However, repealing this measure would have the qualitative benefit of streamlining FHWA regulations by removing regulations that were not authorized by statute from the Code of Federal Regulations. This deregulatory action would also have the qualitative benefit of providing regulatory certainty to State DOTs and MPOs by aligning the CFR with recent court decisions as previously discussed.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This final rule is an E.O. 14192 deregulatory action. Cost savings are not quantified.

C. Regulatory Flexibility Act

Since notice and comment rulemaking is not necessary for this rule, the analytical requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply.

[8] However, had the rule been implemented, FHWA estimates that a deregulatory action repealing the rule would have resulted in cost savings equivalent to the estimated costs of the rule over a 10-year period, *i.e.,* $10.8 million, discounted at 7 percent, and $12.7 million, discounted at 3 percent, equating to an estimated annualized cost of $1.5 million. This would equate to estimated annualized cost savings of $1.5 million. See the Regulatory Impact Analysis for the 2023 final rule, *National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure, RIN 2125–AF99, Final Regulatory Impact Analysis, Final Regulatory Flexibility Analysis,* FHWA–2021–0004–39830.

D. Unfunded Mandates Reform Act of 1995

FHWA has determined that this final rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This rule does not include a Federal mandate that may result in expenditures of $151 million or more in any 1 year (when adjusted for inflation) for either State, local, and tribal governments in the aggregate, or by the private sector. Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act 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. The Federal-aid highway program permits this type of flexibility.

E. Executive Order 13132 (Federalism Assessment)

FHWA has analyzed this action in accordance with the principles and criteria contained in E.O. 13132. FHWA has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. FHWA has also determined that this final rule does not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

F. Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

G. Paperwork Reduction Act

Under the PRA (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. The DOT has analyzed this rule under the PRA and has determined that this rulemaking does not contain collection of information requirements for the purposes of the PRA.

H. National Environmental Policy Act

FHWA has analyzed this final rule for the purpose of NEPA, as amended (42 U.S.C. 4321 *et seq.*), and has determined that this rule would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20). Further, as the Texas court concluded, FHWA lacked authority under the statute to promulgate the greenhouse gas measure, so FHWA lacks discretion to maintain the measure; as a non-discretionary action, further NEPA analysis is not required. Further NEPA analysis is not required for the additional reason that the greenhouse gas measure was enjoined before taking effect (and never went into effect), meaning that the final rule repealing the measure will not change the status quo.

I. Executive Order 13175 (Tribal Consultation)

FHWA has analyzed this final rule under E.O. 13175, dated November 6, 2000, and believes that the 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 rulemaking addresses obligations of Federal funds to State DOTs for Federal-aid Highway Projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

J. Executive Order 13211 (Energy Effects)

FHWA has analyzed this final rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.* FHWA has determined that this is not a significant energy action under that order and 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.

K. Regulation Identifier Number

A 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 the spring and fall of each year. The RIN number 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 490

Bridges, Highway safety, Highways and roads, Reporting and recordkeeping requirements.

Issued under authority delegated in 49 CFR 1.85 on:

Gloria M. Shepherd,

Executive Director, Federal Highway Administration.

In consideration of the foregoing, FHWA amends Title 23, Code of Federal Regulations by revising part 490 to read as follows:

PART 490—NATIONAL PERFORMANCE MANAGEMENT MEASURES

■ 1. The authority citation for part 490 continues to read as follows:

Authority: 23 U.S.C. 134, 135, 148(i), and 150; 49 CFR 1.85.

Subpart A—General Information

§ 490.101 [Amended]

■ 2. Amend § 490.101 by removing the definition for *Fuels and Financial Analysis System-Highways (Fuels & FASH).*

§ 490.105 [Amended]

■ 3. Amend § 490.105 by:
■ a. Removing and reserving paragraph (c)(5);
■ b. Removing ''and (4)'' in paragraph (d) introductory text;
■ c. Removing and reserving paragraphs (d)(1)(v) and (d)(4);
■ d. Removing and reserving paragraphs (e)(1)(i), (e)(1)(ii), and (e)(4)(i)(C);
■ e. Removing '', and (e)(10)(i)'' in paragraph (e)(4)(iii);
■ f. Removing and reserving paragraph (e)(10);
■ g. Removing the second sentence of paragraph (f)(1)(i);
■ h. Removing the first instance of ''MPOs'' in paragraph (f)(3) introductory text and adding in its place ''and MPOs''; and
■ i. Removing and reserving paragraph (f)(10).

§ 490.107 [Amended]

■ 4. Amend § 490.107 by:
■ a. Removing '', and (d)'' in paragraph (a)(1);
■ b. Removing '', except for the GHG measure specified in § 490.105(c)(5)'' from the second sentence of paragraph (b)(1)(i), the third sentence of paragraph (b)(1)(i), and removing and reserving paragraph (b)(1)(ii)(H);
■ c. Removing '', except for the GHG measure specified in § 490.105(c)(5)'' from the second sentence of paragraph (b)(2)(i), the third sentence of paragraph (b)(2)(i), and removing and reserving paragraph (b)(2)(ii)(J);
■ d. Removing '', except for the GHG measure specified in § 490.105(c)(5)'' from the second sentence of paragraph (b)(3)(i), removing the third sentence of paragraph (b)(3)(i), and removing and reserving paragraph (b)(3)(ii)(I);
■ e. Removing the second sentence in paragraph (c)(2) introductory text and removing paragraphs (c)(2)(i) and (ii) and (d).

§ 490.109 [Amended]

■ 5. Amend § 490.109 by removing and reserving paragraph (d)(1)(v), removing ''§§ 490.105(c)(1) through (5)'' in paragraph (d)(1)(vi) and adding in its place ''§§ 490.105(c)(1) through (4)'', removing the second sentence of paragraph (d)(1)(vi), and removing paragraphs (d)(1)(vii) and (viii), (e)(4)(vi) and (vii), (e)(6), and (f)(1)(v).

Subpart E—National Performance Management Measures To Assess Performance of the National Highway System

§ 490.503 [Amended]

■ 6. In § 490.503 remove and reserve paragraph (a)(2).

§ 490.505 [Amended]

■ 7. In § 490.505 remove the definitions of ''Greenhouse gas'' and ''Reference year''.

§ 490.507 [Amended]

■ 8. Amend § 490.507 by:
■ a. Removing the word ''three'' in paragraph (a) introductory text and adding in its place ''two''; and
■ b. Removing and reserving paragraph (b).

§ 490.509 [Amended]

■ 9. In § 450.509 remove paragraphs (f) through (h).

§ 490.511 [Amended]

■ 10. In § 490.511 remove and reserve paragraphs (a)(2), (c), (d), and (f).

§ 490.513 [Amended]

■ 11. In § 490.513 remove paragraph (d).

§ 490.515 [Removed]

■ 12. Remove and reserve § 490.515.

[FR Doc. 2025–06664 Filed 4–17–25; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF JUSTICE

28 CFR Part 202

[Docket No. NSD 104]

RIN 1124–AA01

Pertaining To Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons

AGENCY: National Security Division, Department of Justice.

ACTION: Correcting amendment.

SUMMARY: On January 8, 2025, the Department of Justice published a final rule, prohibiting and restricting certain data transactions with certain countries or persons. That document incorrectly listed a cross-reference. This document corrects the final rule.

DATES: Effective April 18, 2025.

FOR FURTHER INFORMATION CONTACT: Email (preferred): *NSD.FIRS.datasecurity@usdoj.gov*. Otherwise, please contact: Lee Licata, Deputy Chief for National Security Data Risks, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, 175 N Street NE, Washington, DC 20002; Telephone: 202–514–8648.

SUPPLEMENTARY INFORMATION: In FR Doc. 2024–31486 (90 FR 1636) appearing on page 1636 in the **Federal Register** of January 8, 2025, an incorrect cross-reference was given on page 1719. This document corrects that error.

List of Subjects in 28 CFR Part 202

Military personnel, National security, Personally identifiable information, Privacy, Reporting and recordkeeping requirements, Security measures.

Accordingly, 28 CFR part 202 is corrected by making the following correcting amendment:

PART 202—ACCESS TO U.S. SENSITIVE PERSONAL DATA AND GOVERNMENT-RELATED DATA BY COUNTRIES OF CONCERN OR COVERED PERSONS

■ 1. The authority citation for part 202 continues to read as follows:

Authority: 50 U.S.C. 1701 *et seq.;* 50 U.S.C. 1601 *et seq.;* E.O. 14117, 89 FR 15421.

§ 202.401 [Amended]

■ 2. Amend § 202.401 in paragraph (a) by removing the phrase ''as defined by § 202.408'' and adding in its place ''as defined by § 202.248''.