



Memorandum

Subject: **INFORMATION**: Deadline for Initial
Targets and Reports for Greenhouse Gas
Measure

Date: January 26, 2024

From: Hari Kalla **HARI KALLA** Digitally signed by HARI KALLA
Date: 2024.01.26 10:55:20
-05'00'
Associate Administrator for Infrastructure
Emily Biondi **EMILY CHRISTINE
BIONDI** Digitally signed by EMILY
CHRISTINE BIONDI
Date: 2024.01.26 11:41:24 -05'00'
Associate Administrator for Planning,
Environment, and Realty

In Reply Refer To:
HIF-1 and HEP-1

To: Directors of Field Services
Division Administrators

On December 7, 2023, the Federal Highway Administration (FHWA) published a final rule establishing a performance measure for assessing the performance of the National Highway System related to greenhouse gas (GHG) emissions. 88 FR 85364. The final rule became effective on January 8, 2024. *See id.* Among other things, the final rule requires States to establish initial declining targets along with their initial reports by February 1, 2024. See 23 CFR 490.105(e)(1) and 490.107(d).

Twenty-two States have challenged the rule in federal court. *See State of Texas, et al. v. USDOT, et al.* (N.D. Tex., Civil Action No. 5:23-cv-304) and *Commonwealth of Kentucky, et al. v. FHWA, et al.* (W.D. Ky., Civil Action No. 5:23-cv-162). Pursuant to negotiations in these cases, the FHWA has agreed that it will not seek to enforce the February 1, 2024, deadline for States to submit initial targets and reports, until March 29, 2024. FHWA nevertheless encourages States to submit initial declining targets and reports as soon as possible. Earlier initial target and report submittal allows States more time to consider amendments to their initial targets based on updated information for the next performance reports that are due on October 1, 2024. The MPOs are due to establish targets no later than 180 days after the State DOT establishes their targets. *See* 23 CFR 490.105(f).

Please share this memorandum with your respective State departments of transportation. Additional information concerning the final rule can be found on the FHWA's website at <https://www.fhwa.dot.gov/tpm/rule.cfm>.

For information concerning the implementation of the final rule, please contact John Davies at johng.davies@dot.gov, or Alexis Kuklenski at alexis.kuklenski@dot.gov. For

legal questions, please contact Lev Gabrilovich, Senior Attorney Advisor, at (202) 366-3813.