Comments of the Transportation Departments of
Idaho, Montana, North Dakota, South Dakota, and Wyoming
to the
Federal Highway Administration
Docket No. FHWA-2026-0892
Notice and Request for Renewal of a Currently Approved Information Collection
October 7, 2026

The transportation departments of Idaho, Montana, North Dakota, South Dakota, and Wyoming ("we" or "our") respectfully submit these comments in response to the notice and request for comments in this docket, published at 91 Fed. Reg. 55157 (August 26, 2026) (hereinafter "notice").

In this notice the Federal Highway Administration (FHWA) states that it intends to ask the Office of Management and Budget (OMB) for approval to continue a currently approved information collection. The collection in question is for data required of states by FHWA's performance management requirements, 23 CFR 490.

We oppose simple continuation of the current data collection. Instead, we recommend that OMB approve the data collection – but upon condition that FHWA open a rulemaking docket, perhaps in the form of an advance notice of proposed rulemaking (ANPRM), for the purpose of receiving suggestions on how to reduce the data collection and associated reporting requirements in 23 CFR 490. Of course, FHWA could and should take such action on its own.

To illustrate the potential for reduced burdens, we note that our departments opposed a number of the requirements adopted in the current performance management rules, notably those concerning traffic congestion.

For example, we suggested that, as to National Highway System routes that are not on the Interstate System, the rules should not require collection or reporting of travel time for such routes outside of an urbanized area with population of 50,000 or more. Similarly, as to congestion data related to the CMAQ program, the Congress specified in the FAST Act (enacted in 2015) collection of data related to an excessive delay measure be undertaken in urbanized areas with population over one million. Yet, the rule lowered that threshold to a population of over 200,000, expanding the reach of the requirement.

To give context to that recommendation, we ask what congestion data is FHWA looking for in the rural areas of states like ours, on highways outside of urbanized areas? We don't need to incur out of pocket and personnel costs in data gathering and reporting pursuant to a Federal rule to know that the rural non-Interstate NHS routes in Idaho, Montana, North Dakota, South Dakota, and Wyoming are not ordinarily congested. On occasion, lane closures and other non-routine conditions can result in congestion, but those situations do not warrant an ongoing data collection regime. At most, FHWA could require a simple state certification that such routes are not congested.

And, if it turns out that FHWA wants this data anyway, it can collect it itself and not directly or indirectly burden state DOTs, which are already pressing hard to maximize delivery of projects within available resources.

Before closing, we add that it is our experience that FHWA consistently underestimates the time (and/or cost) burden on a State to undertake information collection and reporting tasks. So, we consider that the estimates of burden set forth in the notice are low, perhaps significantly. The people of our states want us to be providing service to them, not diverting effort, scarce dollars, and/or personnel to meeting FHWA data demands that so clearly seem unnecessary.

Nonetheless, specific changes to 23 CFR 490 are not to be determined in this information collection docket. So, our suggestion is that FHWA use its authority regarding information collections to initiate an ANPRM, as described above, to begin a regulatory reduction effort as to part 490. Alternately, should OMB be provided a copy of this filing, it could create momentum for regulatory reduction by directing FHWA to issue such an ANPRM or take similar action.

Conclusion

The transportation departments of Idaho, Montana, North Dakota, South Dakota, and Wyoming thank FHWA for its consideration and respectfully request that all further actions on the subject matter of this docket be consistent with these comments.

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