



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

23 CFR Part 490

[Docket No. FHWA-2013-0053; FHWA-2013-0054]

RIN 2125-AF53; 2125-AF54

National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program; National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program

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

ACTION: Final regulations; delay of effective dates.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” published in the Federal Register on January 24, 2017, the Department delays the effective dates of the following regulations until March 21, 2017: National Performance Management Measures; Assessing Pavement Condition for the National Highway Performance program and Bridge Condition for the National Highway Performance Program, RIN 2125-AF53; and National Performance Management measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program, RIN 2125-AF54.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of the final rules published on January 18, 2017, at 82 FR 5886 and January 18, 2017, at 82 FR 5970, respectively, is delayed to March 21, 2017. The incorporation by reference of certain publications listed in the final rule published on January 18, 2017, at 82 FR 5886 is approved by the Director of the Federal Register as of March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Christopher Richardson, Assistant Chief Counsel for Legislation, Regulations, and General Law, Office of Chief Counsel, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-0761. Office hours are from 8:00 a.m. to 4:30 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the Notice of Proposed Rulemakings (NPRMs), all comments received, the Final Rules, and all background material may be viewed online at <http://www.regulations.gov> using the docket numbers listed above. A copy of this notice will be placed on each docket. Electronic retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's Web site at <http://www.ofr.gov> and the Government Publishing Office's Web site at <http://www.gpo.gov>.

Background

On January 20, 2017, the Assistant to the President and Chief of Staff issued a memorandum entitled, “Regulatory Freeze Pending Review.” This memorandum directed heads of executive departments and agencies to take certain steps to ensure that the President’s appointees and designees have the opportunity to review new and pending regulations. It instructed agencies to temporarily postpone the effective dates of regulations that had been published in the Federal Register but were not yet effective until 60 days after the date of the memorandum (January 20, 2017). In accordance with that directive, the FHWA is delaying the effective dates of the regulations listed below as follows:

RIN	Title	Agency Contact	Original Effective Date	Delayed Effective Date
2125-AF53	Assessing Pavement Condition for the National Highway Performance Program and Bridge Condition for the National Highway Performance Program	Francine Shaw Whitson, Office of Infrastructure, 202-366-8028	February 17, 2017	March 21, 2017
2125-AF54	Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program	Francine Shaw Whitson, Office of Infrastructure, 202-366-8028	February 17, 2017	March 21, 2017

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), FHWA generally offers interested parties the opportunity to comment on proposed regulations and publishes rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or

delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as the President's appointees and designees need to delay the effective dates of these regulations to have adequate time to review new or pending regulations, and neither the notice and comment process nor delayed effective date could be implemented in time to allow for this review.

List of Subjects in 23 CFR Part 490

Bridges, Highway safety, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued on: February 7, 2017.

Walter C. Waidelich, Jr.
Acting Deputy Administrator
Federal Highway Administration

[FR Doc. 2017-02860 Filed: 2/10/2017 8:45 am; Publication Date: 2/13/2017]