

October 28, 2011

U.S. Department of Transportation
Dockets Management Facility
1200 New Jersey Ave., SE
Washington, DC 20590
<http://www.regulations.gov>

**Re: FHWA Docket No. FHWA-2010-0159
National Standards for Traffic Control Devices; the Manual on Uniform Traffic Control
Devices for Streets and Highways; Revision**

The American Road and Transportation Builders Association (ARTBA) is pleased to submit comments on the above-referenced notice in the Federal Register. ARTBA's membership includes construction contractors, planning and design firms, educators, public officials, and heavy construction equipment manufacturers, as well as manufacturers, suppliers and installers of temporary and permanent traffic control devices, including signs.

ARTBA welcomes the opportunity to comment on the August 31, 2011 Notice of Proposed Amendments (NPA) to compliance dates associated with the national standard for minimum maintained levels of retroreflectivity for traffic signs. In the NPA, the Federal Highway Administration (FHWA) proposes to eliminate two deadlines for replacing signs that no longer meet the minimum required levels of retroreflectivity. In addition, FHWA proposes to extend by two years the deadline for establishing and implementing a sign management method designed to ensure that regulatory and warning signs meet the national retroreflectivity standard. The deadline for establishing a similar sign management method for guide signs and street name signs would also be eliminated.

FHWA indicates that the proposed amendments are designed to ease the financial burden that the existing compliance deadlines would impose on public agencies. ARTBA understands the financial constraints that many state and local agencies face because of the effects of a lingering recession. For that reason, we argued strongly in our previous comments to this docket that "local governments must be assured of receiving federal funds in order to meet their obligations under the national standard." While states receive approximately \$1.3 billion nationwide each year through the Highway Safety Improvement Program that can be used for replacement of failed traffic signs, it is incumbent upon Congress and the Administration to ensure that local governments also receive sufficient federal funding to meet their obligations under this important national safety standard.

Full implementation of the national standard for minimum maintained levels of retroreflectivity is a high priority for ARTBA, as it should be for FHWA. As indicated in our prior comments, ARTBA agrees with FHWA's written assertion that it "expects that improvements to the nighttime visibility of traffic signs will help drivers better navigate the roads at night and thus promote safety and mobility." We do not believe, however, that eliminating the sign replacement deadlines and modifying the sign management deadline, as proposed in the NPA, are consistent with the safety and mobility objectives underlying the national retroreflectivity standard, nor are these changes necessary to address the financial concerns expressed by state and local governments.

To address the dual public policy interests of enhancing safety for nighttime drivers and mitigating the near-term financial constraints of state and local governments, ARTBA reiterates our previous recommendation with respect to compliance dates. FHWA should consider a modest extension of the compliance dates for replacement of failed signs (e.g., 2018 for regulatory and warning signs and 2021 for overhead guide and street name signs) and leave unaltered the compliance date for agencies to adopt a sign management method.

Assuming a 2012 effective date for these modifications, public agencies would have six years to replace the critically important regulatory and warning signs that no longer provide adequate retroreflectivity and nine years to replace those failed guide and street name signs that affect both the safety and mobility of a steadily aging driver population. This additional time for replacement of failed signs, combined with guaranteed federal funding to local governments for sign replacement, would allow FHWA to address the current fiscal condition of state and local governments while ensuring that the public safety benefits of the national retroreflectivity standard will be realized in the foreseeable future.

The issue of tort liability also continues to be a source of concern, as proposed retroreflectivity standards have left local agencies open to lawsuits even if they have a plan in place to maintain minimum retroreflectivity levels. Any further implementation of the retroreflectivity standards must build in a mechanism whereby local agencies would be protected from tort liability as long as they have a reasonable method in place to manage and assess their signs and a reasonable schedule for replacing any signs as needed. So long as it can be demonstrated that there is a plan and schedule in place, the rule should offer a shield from liability. To have the standard function otherwise could place local transportation agencies with very limited resources at great financial risk.

Thank you for considering our views on this important roadway safety matter.

Sincerely,

A handwritten signature in black ink, reading "T. Peter Ruane". The signature is fluid and cursive, with the first name "T." and last name "Ruane" clearly legible.

T. Peter Ruane
President & C.E.O