

January 14, 2011

U.S. Department of Transportation
Dockets Management Facility
Room W12-140
1200 New Jersey Ave., SE
Washington, DC 20590

Re: FHWA Docket No. FHWA-2010-0159
Manual on Uniform Traffic Control Devices (MUTCD) Compliance Dates

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 submitted comments on both the Notice of Proposed Amendments and the Supplemental Notice of Proposed Amendments published by the Federal Highway Administration (FHWA) prior to the December 21, 2007, promulgation of a final rule on minimum levels of retroreflectivity for traffic signs. A large portion of our previous comments is relevant and applicable to the issues raised and questions posed by FHWA in the current request for comments on compliance dates. Thus, we reiterate portions of our prior comments, as follows in italics:

Almost 50 percent of traffic fatalities occur at night, even though less than 25 percent of travel occurs during nighttime hours. This statistic, grounded in a number of factors, highlights an alarming roadway safety problem. After considerable research and analysis, the FHWA asserts 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."

ARTBA applauds, agrees, and strongly supports this position. We further believe that as the nation's middle-aged and senior driving population rapidly grows, addressing nighttime roadway visibility issues must become an even higher government priority. We trust that belief is shared by all parties interested in roadway safety. ARTBA believes the MUTCD amendments proposed by FHWA could produce significant public safety benefits.

FHWA's safety and operations professionals have spent more than a decade and thousands of dollars developing and analyzing the data to support a national standard for minimum maintained retroreflectivity levels. We commend the agency and its staff for their dedication to this important project. The FHWA proposes a phase-in compliance period of seven years for ground-mounted signs and 10 years for overhead signs. ARTBA agrees there is a need for a multi-year phase-in period for implementation of the proposed regulations.

In order to treat local governments equitably and ensure the safety benefits of the new national Standard are realized as soon as possible, ARTBA urges the FHWA to provide targeted and assured federal funding to local governments in concert with the implementation of the MUTCD amendments. Given the 7- to 10-year phase-in period for any signs that must be replaced under the proposed amendments, an appropriate provision in legislation reauthorizing the federal-aid highway program could provide the necessary financial support. ARTBA strongly encourages the FHWA to incorporate in its own reauthorization proposal a provision guaranteeing that local agencies will receive federal-aid highway funds to meet their obligations under the national Standard for maintaining minimum levels of traffic sign retroreflectivity. Federal funding must be provided to local governments in advance of the deadline for replacing inadequate signs to ensure the [new national standard is] fully and effectively implemented.

In summary, ARTBA believes the national standard on minimum maintained levels of retroreflectivity in traffic signs addresses an important roadway safety problem and, when fully implemented, will result in significant roadway safety improvements. Further, we believe the multi-year phase-in period established in the final rule is appropriate. We also strongly believe, however, that local governments must be assured of receiving federal funds in order to meet their obligations under the national standard, and in the absence of a new highway authorization enacted by Congress, no real progress has been made on this key point. Simply put, without the proper funding, local governments will not have the resources necessary to achieve the goals of the new retroreflectivity standards.

The issue of tort liability also continues to be a source of concern. 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 at great financial risk from frivolous lawsuits which, in addition to draining limited resources, would cause significant delays in implementing new standards.

In our view, the FHWA should leave the compliance dates as currently written and focus much greater attention on ensuring that federal funding will be provided to local governments in order to fully implement the national standard. If the FHWA determines that it is necessary to modify the compliance dates, ARTBA would recommend a modest extension of the 2015 and 2018 compliance dates for replacement of those signs that fall below the minimum levels of retroreflectivity, but leaving in place the 2012 compliance date for public agencies to adopt a management or assessment program by which the number and adequacy of traffic signs will be identified and tracked. That way, failing signs will be known and can be replaced as financial resources permit and reasonable compliance deadlines require.

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 written in a cursive style with a large, stylized initial "T".

T. Peter Ruane
President & C.E.O