

# Public Policies

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National Work Zone Safety Program  
November 12, 2005

Include the requirement that for each project a trained and certified person be given responsibility for assuring that the Traffic Control Plan is effectively administered. The Secretary of Transportation should direct state highway agencies to include on all projects a penalty provision to be applied for days or periods of time when the traffic control is not in compliance with the Traffic Control Plan.

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Roadway Funding  
November 12, 2005

ATSSA supports policies that ensure that all revenues raised through motor vehicle fuel taxes remain dedicated to expanding and maintaining the roadway system.

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## Minority and Woman Business Enterprise Program November 12, 2005

ATSSA recommends that the FHWA put limits on the amount of work in each specialty contracting area that could count toward the 10% goal. The U.S. DOT should work closely with private industry organizations to develop training programs for minority and woman business enterprise firms to help them compete within the free enterprise system on an equal basis. ATSSA recommends the introduction, implementation, and enforcement of "exit" provisions limiting a certified individual or company participation in the DBE program to three years.

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Government Competition with Private Industry  
November 12, 2005

The current trend of utilizing private businesses for production of services is encouraged. ATSSA opposes any expansion of government that creates competition with small business. Further, ATSSA encourages government agencies to phase out the use of in-house services that are readily available through the private sector and to pursue partnerships, wherever possible, with private enterprise in the traffic safety industry.

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## Prison Industry Competition with Private Industry

November 12, 2005

ATSSA encourages the current trend of utilizing private businesses to provide public products and services. ATSSA supports the current limitations on the use of convict-produced materials on Federal-Aid Highways. ATSSA supports the following:

- That prison industries seek for labor intensive products and services markets that do not compete with the private sector;
- In those markets where products and services are currently being produced by the private sector, an independent entity should be commissioned to determine the impact of prison industries entering the market.
- Before state prison industries enter into new or expand existing markets, the governor of the state should be required to approve that expansion.
- Prison industries should maintain the same OSHA and quality standards requirements as found in the private sector.

All federal and state prison industry preference laws should be abolished - prison industries should have to compete with the private sector through the competitive bidding process, using comparable materials and labor costs as those of the private sector, and be required to provide documentation. Timely delivery, workmanship, warranties and certifications should also be required of the prison industries just as they are of the private sector.

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Pavement Marking Technician Training and Certification  
November 12, 2005

ATSSA strongly urges the adoption of a policy requiring the presence and supervision of a Certified Pavement Marking Technician on all pavement marking projects.

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Traffic Safety Information for State Drivers' Manuals  
November 12, 2005

ATSSA supports the inclusion of temporary traffic control and safety information in state drivers' manuals.

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Aging Drivers  
Date

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Off-Street Signing  
November 12, 2005

ATSSA urges local and state governments to enact ordinances stipulating that standard uniform traffic control devices, in accordance with the Manual on Uniform Traffic Control Devices, be used where necessary on off-street property where the public is invited to travel. Furthermore, we support the AASHTO policy recommendation to add a new section in the MUTCD identified as Part X entitled, "Traffic Control Devices on Private Property" which delineates the special needs of traffic control in parking/pedestrian environments. The National Committee on Uniform Traffic Control Devices should issue interim guidelines for consideration by its sponsoring organizations until guidelines or standards are included in the MUTCD.

# Public Policies

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Full Compliance Pavement Markings  
November 12, 2005

Either interim or permanent full compliance pavement markings should be applied by the end of each working day.

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Work Zone Pavement Markings  
November 12, 2005

During construction, all roadways should be marked to provide the safest possible guidance and information for the safety of the pedestrian, motorist and construction worker.

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All Weather Pavement Markings  
November 12, 2005

Pavement markings should be visible in all weather conditions. ATSSA encourages states and local jurisdictions to develop and utilize a pavement marking management system which implements markings that are visible in all conditions, day and night.

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Durable Pavement Markings  
November 12, 2005

Increased use of durable pavement marking systems that are effective throughout the entire year is encouraged. ATSSA also encourages agencies to implement pavement marking management systems that will optimize material selection and will track associated life cycle costs.

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## Maintenance of Pavement Markings November 12, 2005

State and local agencies are urged to develop performance standards for pavement markings that recognize local climatic conditions; establish programs that continually monitor compliance with applicable standards; optimize use of more durable materials, wherever possible, for year round delineation; and join with ATSSA to petition the Federal Highway Administration for increased resources for pavement marking maintenance.

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## Minimum Levels of Retroreflectivity for Pavement Markings November 12, 2005

ATSSA strongly supports the work of the FHWA to establish a national minimum standard for the retroreflectivity of pavement markings. ATSSA encourages the FHWA to adopt the MUTCD language developed and supported by ATSSA for minimum levels of pavement marking retroreflectivity.

# Public Policies

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Specification Enforcement for Pavement Markings  
November 12, 2005

State and local governments that currently do not use strict guidelines should adopt guidelines for minimum standards and specifications for the application of pavement markings. There is a current need to upgrade equipment and train personnel in specification enforcement and to create programs within the agencies that will allow for consistent and ongoing inspection of pavement markings.

# Public Policies

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Warranty Contracts on Pavement Marking Materials  
November 12, 2005

ATSSA endorses the recent FHWA decision to allow the use of warranty clauses for pavement markings on federal aid highway construction projects and strongly encourages state and local agencies to develop and implement standards to be used in warranty contracts.

# Public Policies

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Striping Funding  
Date

# Public Policies

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Speed Control in Work Zones  
November 12, 2005

ATSSA supports the implementation of work zone speed reduction techniques to enhance motorist, pedestrian and worker safety.

# Public Policies

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Prompt Pay, Pay-if-Paid Clause, Retainage  
November 12, 2005

ATSSA is committed to the principle of subcontractors' rights to prompt payment upon completion of satisfactory performance of the construction work. We support legislation making the use of contingent payment clauses against public policy and requiring payment within a specified period of time to prime contractors, subcontractors and suppliers. Unnecessary retainage on construction projects should be eliminated.

# Public Policies

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Risk Management/Liability  
November 12, 2005

The agency, its contractors and subcontractors should share the risk exposure of the contract commensurate with the degree of their responsibility for any incident that occurs. ATSSA further urges that where necessary, legal codes be modified to reflect shared liability.

# Public Policies

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TEA-21 Reauthorization

November 12, 2005

ATSSA supports a strong federal role in regard to roadway safety infrastructure. Numerous ATSSA policies are included in the development of a comprehensive reauthorization policy.

1. Strong Federal Role - ATSSA petitions Congress to continue its support for a uniform roadway system and to solicit the Department of Transportation to develop an annual report for Congress on the impact of TEA-21's flexibility provisions on roadway safety categorical programs.

ATSSA expresses support for congressional action in TEA-21 to ensure that all roadway user fees currently entering the Highway Trust Fund be expended to fund transportation projects and not be used to support other government programs. Utilizing user fees in this manner enhances the transportation programs' credibility with the motorists who pay into the fund while helping to close the gap between transportation infrastructure needs and resources.

2. Roadway Safety Infrastructure Program Enhancements - ATSSA petitions Congress to develop an aggressive program designed to assist states in upgrading their local roadway safety systems in preparation for the increase in the number of older drivers and to improve roadway safety for the here and now. ATSSA recommends implementation of a Roadway Safety Infrastructure Program with the following characteristics:

- **Minimum Levels of Retroreflectivity:** A minimum retroreflectivity standard for markings and signs should be set so that the necessary amount of light reflected back to the driver is sufficient to allow an older driver to navigate the roadway safely. ATSSA supports the timely publication of a final rule to establish minimum levels of retroreflectivity for signs and pavement markings in order to reduce the number of fatalities on our nation's highways.
- **Amend Section 130 Rail-Highway Grade Crossing and Section 152 Hazard Elimination Program:** Congress should amend both Section 130 and Section 152 to provide easier access to program funding by allowing states and local governments to utilize the program's funds with only a 2% local match. Section 152 should be amended to allow states, cities and counties to utilize their funds to implement roadway safety infrastructure improvements recommended in the Federal Highway Administrations' report: Older Driver Highway Design Handbook - Recommendations and Guidelines December 1998.
- **Expand Section 120 (c) 100% Safety Project Match:** Amend section 120(c) to increase from ten to twenty percent the amount states can use from their core highway program for roadway safety upgrades with no local match

requirements. It also requires states spend at least five percent of their Federal-aid highway dollars on roadway safety related projects covered under subsection 120 (c) (1) & (2). Additional roadway safety project categories are added such as: rumble strips, and projects to upgrade highway safety devices covered under NCHRP 350 and the recommendations found in the Federal Highway Administrations' report: Older Driver Highway Design Handbook - Recommendations and Guidelines December 1998.

- National Roadway Safety Improvements Annual Report: ATSSA petitions Congress and the Federal Highway Administration to develop an aggressive reporting system to measure how well federal roadway safety improvement funds are being utilized by the states. This report should specifically focus on the use of devices that create a more forgiving roadway environment for the older driving public.
  - Roadway Safety in Planning: ATSSA petitions Congress to encourage the FHWA to assist MPO's in utilizing safety in planning. Providing MPO's with hard data on the cost benefit information available for investing in safety improvements would support the consideration of safety earlier in the planning process.
3. Roadway Work Zone Safety - ATSSA petitions Congress to implement the following work zone related safety provisions:
- Federal-Aid Highway Projects - General Provisions:
    - A. Basic Work Zone Safety Course - Congress should require that all individuals who work on Federal-Aid Highway program funded projects be able to demonstrate that they have received training in how to work next to traffic in a way that minimizes their vulnerability.
    - B. Technician Training - All workers involved with the installation, adjustment, and removal of temporary traffic control devices must be supervised by individuals who can demonstrate that they have passed a technician level work zone installation course.
    - C. Flagger Training - All individuals who provide traffic control flagging duties on Federal-Aid Highway program funded projects shall be required to demonstrate that they have received training in proper traffic control techniques, device usage, and placement<sup>1</sup>.
    - D. Traffic Control Plan Compliance - Congress should direct the Secretary of Transportation to direct state highway agencies to include on all projects a penalty provision to be applied for days or periods of time when the traffic control is not in compliance with the Traffic Control Plan. Whatever method of payment is used, it is important that there be an ongoing review of procedures as problems and concerns develop. The most successful systems result from joint development and review by both the agency and industry.
    - E. Traffic Control Devices 100% Match - In order to assist states and the private sector to upgrade their traffic control devices in compliance with NCHRP 350 crash standards ATSSA petitions that Congress further amend

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<sup>1</sup> Flagger Training - Demonstrating capacity would consist of evidence that the flagger had been appropriately trained in the basics of flagging (certification card).

USC Title 23 Section 120 (c) to read: ...utility poles, *any Section 104 projects' work zone traffic control bid items*,...

- F. FWHA Work Zone Safety Review & Analysis - Congress should direct the Secretary of Transportation to conduct annual reviews of work zone safety practices and policies. These reviews should evaluate conditions on a state-by-state and national level in order to determine the effectiveness of each state's work zone safety practices. The results of such inspections, reviews, and assessments should be reported annually and distributed to the states so successful practices can be acknowledged. Successful techniques could then be incorporated by states that have higher work zone fatalities and accident rates so that those rates could be reduced.
  
- Roadway Safety High-Risk Project Work Zone Specifications:
  - A. Traffic Control Plan Compliance - Contracts should contain a bid incentive of 10% of the cost of traffic control items if the project's traffic control maintains a 97% compliance rate with the traffic control plan<sup>2</sup>.
  - B. Certified Traffic Control Supervisor - A certified traffic control supervisor<sup>3</sup> must be present during the installation or reconfiguration of a traffic control plan's temporary traffic control devices.
  - C. Technician Training - All workers involved with the installation, adjustment, and removal of temporary traffic control devices must be supervised by individuals who can demonstrate that they have passed a technician level work zone installation course.
  - D. Flagger Training - All individuals who will be providing traffic control flagging duties shall be required to demonstrate that they have received training in proper traffic control techniques, device usage, and placement<sup>4</sup>.
  - E. Partnering Meeting - Schedule prior to the commencement of work a "partnering" meeting consisting of representatives of all private and public entities performing work on the project to review the traffic control and project safety plan,
  - F. Traffic Control Plan Supervisor - The initiating agency shall designate, and require the contractor to designate, for each project, a person trained and certified in temporary traffic control "best practices" who will have the responsibility and authority for ensuring that the provisions of the Traffic Control Plan (TCP) and other safety aspects of the work zone are effectively administered<sup>5</sup>.

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<sup>2</sup> Traffic Control Plan Compliance - The project would be deemed in compliance with the traffic control plan if changes to the plan are approved by a certified traffic control supervisor after consulting with and receiving approval for the controlling entity's project engineer.

<sup>3</sup> Traffic Control Supervisor (TCS) - A certified traffic control supervisor is someone who has been appropriately trained and passed an exam certifying that the individual understands the current standards and best practices in installing and working in a roadway traffic control zone.

<sup>4</sup> Flagger Training - Demonstrating capacity would consist of evidence that the flagger had been appropriately trained in the basics of flagging (certification card).

<sup>5</sup> Traffic Control Plan Supervisor - This should be at minimum a certified traffic control supervisor level employee.

- Maximum Protection - ATSSA supports State's qualified use of 100% federal funds under Section 120(c) of Title 23 for providing a means of positive separation to protect the motorist and the project personnel on all projects where:
  - Traffic must be maintained throughout the life of the project, and
  - Operational speeds of up to 45 mph must be maintained.

ATSSA supports requiring the use of positive separation on construction projects where operational speed limits exceed 60 mph. The only exceptions to this specification would be in cases where there is insufficient width on the section of roadway and shoulder left to carry the traffic or the cost of constructing a temporary additional lane is not justified.

- Work Zone Safety - Outreach and Public Awareness: ATSSA supports providing ongoing funding for the ARTBA/TTI managed National Work Zone Safety Information Clearinghouse through the Federal Highway Administration to assist in carrying out current program activities. The ATSSA-FHWA-AASHTO sponsored National Work Zone Safety Awareness Week should receive the funds necessary through FHWA and NHTSA to promote industry and public awareness of work zone safety issues.

4. Roadway Safety Industry Issues - ATSSA strongly supports recent DOT efforts to promote Disadvantaged Business Enterprises (DBE) through enacting policies that benefit all subcontractors. ATSSA recommends enacting the following policies that would strengthen the industry and particularly DBE companies:

- Prompt Pay - ATSSA supports language mandating every state to develop a comprehensive "prompt pay" clause for all federal-aid contracts. An effective prompt pay statute should:
  - A. Eliminate the use of contingent payment clauses (pay-if paid),
  - B. Require owners to pay their prime contractors within ten days after receipt of a proper invoice; prime contractors to pay their subcontractors within seven days after receiving payment from the owner; and subcontractors to pay their subcontractors and suppliers within seven days of receipt of payment from the prime contractor. A late payment interest penalty must be paid automatically when payment is late,
  - C. Eliminate unnecessary retainage on all construction projects. ATSSA supports five percent retainage as sufficient,
  - D. Prohibit a prime contractor from retaining a higher percentage from its subcontractors than the owner is retaining from the prime.
- Pay-If-Paid Issue - ATSSA supports language prohibiting the use of "pay-if-paid" clauses in any federal-aid highway program funded project.
- Retainage - ATSSA petitions Congress to address the retainage issue by enacting the following:
  - A. Language eliminating unnecessary retainage on all construction projects and prohibiting a contractor from retaining a higher percentage from its subcontractors than the state agency retains from the prime.

- B. Provisions requiring retained funds to be held in escrow with interest accruing to the benefit of the party to whom funds are owed.
- Convict Produced Materials - ATSSA petitions Congress to close the loophole in USC Title 23 Section 114(b) CONVICT LABOR AND CONVICT PRODUCED MATERIALS by amending the language to read:

114 (b) CONVICT LABOR AND CONVICT PRODUCED MATERIALS —

(1) LIMITATION ON CONVICT LABOR — Convict labor shall not be used if construction of highways or portions of highways located on a Federal-aid system unless it is labor performed by convicts who are on parole, supervised release, or probation.

(2) LIMITATION ON CONVICT PRODUCED MATERIALS — Materials produced after July 1, 1991 by convict labor may only be used in such construction if such materials are produced by convicts who are on parole, supervised release, or probation from a prison.

- Hours of Service - ATSSA petitions Congress to enact language granting an hours of service exemption to the pavement marking industry on all federal-aid projects just as the NHS legislation has granted an exemption for drivers transporting construction materials and equipment. The exemption should provide for a period of seven or eight days to end with the beginning of an off duty period of 24 or more consecutive hours for the purposes of determining maximum driving and on-duty time.

# Public Policies

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## Use of Fluorescent Yellow Green and Fluorescent Pink as Sign Colors November 12, 2005

ATSSA supports the mandatory use of fluorescent yellow green color [as intended by the June 7, 1996 Federal Register Docket No. 96-9] as a related background color for the bicycle, pedestrian and school signs. ATSSA supports a reasonable compliance time be given to minimize the financial impact on local jurisdictions.

ATSSA supports the use of the fluorescent pink color as a background color for signs used for emergency, unplanned incidents. ATSSA supports the language developed by the Construction and Maintenance Technical Committee of the National Committee on Uniform Traffic Control Devices (NCUTCD), which was also approved by the full body of the NCUTCD in June, 1997 (reference Section 6F-2 of the proposed reformatted MUTCD), except ATSSA does not support a non-fluorescent option.

# Public Policies

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## Wider Lines Policy November 12, 2005

It is ATSSA's position that agencies should employ the use of wider lines in locations where there are roadway geometric deficiencies or where significant lane excursions exist.

Secondly, ATSSA strongly recommends that research be done to review the benefits that are derived from existing wider line installations, to determine which roadway conditions could most benefit from wider lines, to study the requirements of the driver with vision difficulties and to evaluate the cost-benefit ratios of wider lines in these areas.

# Public Policies

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Sign Illumination  
November 12, 2005

ATSSA supports all jurisdictions' upgrading of overhead guide sign backgrounds to higher performance reflective sheeting. Engineering studies should be conducted to determine if removing independent illumination from an existing overhead guide sign is appropriate. These studies should be conducted on an individual sign basis.