



2006  
**Action**  
**Agenda**



American Association of State Highway  
and Transportation Officials



## FOREWORD

The American Association of State Highway and Transportation Officials is a nonprofit, nonpartisan association representing highway and transportation agencies in the 50 states, the District of Columbia and Puerto Rico. The Association represents all transportation modes, including air, highways, public transportation, rail and water. Its primary goal is to foster the design, construction, maintenance, operation and management of an integrated national transportation system and to ensure that the resources are made available to meet these goals.

AASHTO's mission is to advocate for transportation-related policies and provide technical services to support states in their efforts to efficiently and safely move people and goods.

The issues and recommendations within this publication are based on current policies of the Association that have been approved by the AASHTO Board of Directors.

## INTRODUCTION

AASHTO thanks the Members of the 109th Congress and the Administration for enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which authorizes the federal-aid highways, highway safety, motor carrier safety and transit programs for fiscal years 2005 through 2009. SAFETEA-LU's record funding levels are consistent with the enhanced federal emphasis on safety, security, freight mobility and congestion relief. Program management and environmental streamlining provisions are designed to advance oversight and accountability for the user-fee financed federal highway and transit programs.

The natural disasters which occurred during 2005, served as a sad, but potent reminder of the critical role of our nation's transportation infrastructure, prior to, during and in the aftermath of crises such as hurricane Katrina. A well-functioning transportation system is essential to moving people out of harm's way and to rebuilding the economies of those areas most heavily damaged.

And, we need look no further than China, with its extraordinary commitment to financing and constructing a highway network comparable to our National System of Interstate and Defense Highways, to remind us of the essential role that transportation infrastructure plays in ensuring a world class economy.

The National System of Interstate and Defense Highways was first planned over 75 years ago and the system with its financing mechanism was established through legislation enacted 50 years ago in 1956. As we celebrate the 50th anniversary of that Interstate system, we must also look to the next 50 years to identify what is needed to keep this vital system the bedrock of a strong economy.

Since the Interstate System was originally laid out, the population and vehicle travel demands in the nation have increased far beyond any forecasts; the demographics in terms of ethnicity, age, numbers, and geographic location have significantly changed. Freight movement has exploded and international trade is far different today than 75 years ago and will be significantly different 50 years from now. While the initial system was designed to connect American cities to each other, the future interstate must connect America to the world. As we implement the provisions of SAFETEA-LU, we must simultaneously begin to explore policy options for the Interstate for the next 50 years.

During 2006 AASHTO commits to working with the commissions chartered under SAFETEA-LU as well as with our association partners and stakeholders to chart a new vision for the future and for the next reauthorization starting in FY 2010.



Harold E. Linnenkohl  
*President*



John Horsley  
*Executive Director*

## **Uphold the Funding Guarantees in SAFETEA-LU**

SAFETEA-LU continues to ensure the integrity and reliability of the dedicated Highway Trust Fund revenues through funding guarantees and firewalls for the Highway Trust Fund. These mechanisms were first enacted through the Transportation Equity Act for the 21st Century (TEA 21), codifying the principle that all federal highway and transit user fees collected should be promptly invested in highway and transit programs.

SAFETEA-LU specifies that in the event that the revenue estimate for a given year either exceeds or falls below the revenue estimates set forth in SAFETEA-LU then the obligations and related outlays are either increased or reduced to align the revenues with the program levels for that fiscal year. Further specific action by Congress is not required to implement these requirements. Also in the case of reductions, the law provides that no reduction will be made unless the estimated balance in the Highway Account of the Highway Trust Fund is estimated to fall below \$6 billion.

A recent study of the U.S. Chamber of Commerce Foundation indicates that highway spending at the levels guaranteed by SAFETEA-LU may result in a complete drawn down of the Highway Account of the Highway Trust Fund at least one-year prior to the end of the SAFETEA-LU authorization period in 2009.

## AASHTO RECOMMENDS THAT:

- Congress and the Administration begin to identify and consider short term strategies to narrow a potential revenue shortfall and to prevent the Highway Trust Fund from approaching a zero balance situation.
- Congress should consider appropriate actions to avoid the substantial economic impacts that would result from a sudden and severe reduction in guaranteed funding levels for the major federal highway programs.



## **Support funding for Highway Emergency Relief, when its requirements exceed \$100 million per year, with revenue enhancements to the Highway Trust Fund or supplements to the General Fund**

Title 23 of the United States Code, provides permanently for \$100 million per year for natural disasters that occur in the States. This funding is exempt from obligation limitations.

Disasters over the last decade or more have dramatically exceeded this \$100 million level, which was first enacted in 1978. Congress has generally enacted supplemental appropriations to fund the shortfalls. These appropriations typically have been made from the Highway Trust Fund. Given the limited balances in the Trust Fund, it is essential that any future appropriations be taken from the General Fund.

### **AASHTO RECOMMENDS THAT:**

- Congress and the Administration work to ensure that funds are appropriated promptly to meet disaster needs and that those funds are made available from the General Fund.
- Congress and the Administration move promptly to provide needed Emergency Relief funds.
- Over the longer term, Congress should increase the \$100 million per year permanent appropriation for emergency relief to meet a higher, but more realistic level of funding for disaster relief.





## **Develop practical and flexible guidance and regulations to implement SAFETEA-LU**

Federal surface transportation programs focus on national economic, social, environmental, safety and security goals. In meeting these goals, the Federal government should recognize the role of the governmental entities that own and operate these systems, and acknowledge and respect the geographic, cultural and institutional diversity among the States and the variation in their approaches to planning, project delivery, and system management. Management and delivery of highway, highway safety, and transit programs and projects is highly complex and regulated by state and local laws and regulations as well as by Federal requirements.

The Federal government should play a leadership role in assisting the States to attain national program goals by giving the States maximum flexibility, avoiding prescriptive, one-size-fits-all rules and regulations, and eliminating costly and unfunded mandates.

### **AASHTO RECOMMENDS THAT THE U.S. DEPARTMENT OF TRANSPORTATION AND OTHER FEDERAL AGENCIES ENGAGED IN IMPLEMENTING SAFETEA-LU:**

- Provide maximum flexibility for states to use different approaches in implementing SAFETEA-LU programs, policies and procedures;
- Issue guidance in lieu of regulations;
- Do not issue regulations that impose new requirements beyond those required by statute.



## **Get the work of SAFETEA-LU's Major Commissions underway and seek technical and policy input from the States**

Federal aid investment provides an essential financial contribution to preserve and improve the nation's highway and transit system; it represents one-half of capital investment. The balance comes from the States and local governments, which are the owners of the Nation's highway and transit systems and are directly responsible for their maintenance and operation. Therefore, a true federal-state-local partnership is needed to forge the vision for the future surface transportation system. An effective partnership is needed to re-examine and reformulate appropriate roles and responsibilities, and to recommit to a future financing mechanism to ensure a transportation system that will meet the Nation's needs of the next fifty years and beyond.

### **AASHTO RECOMMENDS THAT:**

- Congress and the Administration appoint representatives to the Commissions who offer the broad policy and institutional perspective of the State Departments of Transportation.
- The Commissions aggressively and widely solicit the views of the owners and operators of the Nation's surface transportation systems.
- The Commissions seek policy input and technical assistance from AASHTO, which represents the 50 state transportation agencies as well as those in the District of Columbia and Puerto Rico.
- Congress provide adequate funding to support the work of the Commissions.



## **Provide technical support and input to the implementation of new highway safety programs and requirements established under SAFETEA-LU**

During the past decade, about 43,000 Americans have died and 3.25 million more have been injured each year in motor vehicle crashes. Over this same period the fatality rate has stalled in its decline. Almost 60 percent of all fatalities take place on rural roads. According to U.S. DOT, the economic impact of motor vehicle crashes has reached \$230.6 billion per year for an average of \$820 for every person living in the United States.

SAFETEA-LU created a new core highway safety improvement program, instituted a requirement for State Highway Strategic Safety Plans, and established new or modified programs including the Safe Routes to School Program, the High Risk Rural Roads Program, and a number of incentive grant programs for occupant protection ), data incentive grants and alcohol incentive grants .

SAFETEA-LU requires the states to have a comprehensive highway safety plan consistent with the State Transportation Improvement Program. This plan must demonstrate that the States have performance-based goals that include behavioral and safety infrastructure components, cover all the roads in the state, and are the result of consultations with local governments, governors' safety offices, police and motor vehicle agencies.

## **IN IMPLEMENTING SAFETEA-LU'S REQUIREMENTS, AASHTO RECOMMENDS THAT:**

- U.S. DOT issue flexible guidance on the development of State strategic highway safety plans, given the wide variation in each state with respect to their safety institutional structures and state safety laws.
- To the maximum extent possible, use guidance rather than regulations to implement safety programs.
- U.S.DOT proactively provide technical assistance and research on effective countermeasures, and support the States as they develop their own unique strategic highway safety plans.





## **Improve administration of the Section 106 consultation process required under the National Historic Preservation Act**

Protection of historic resources must be considered as part of the decision-making process for transportation projects. Current approaches for evaluating National Register eligibility and assessing effects on historic properties are inconsistent and ad hoc, which results in frequent presumptions of National Register eligibility. There are few historic contexts to guide National Register eligibility determinations. Section 106 decision-making roles are not well understood or followed and the existing Section 106 process focuses on individual projects, rather than more streamlined, programmatic approaches.

AASHTO believes that changes to administration of the Section 106 process can simplify and improve this process while ensuring the timely delivery of transportation projects and preserving and enhancing stewardship of historic properties.

### **AASHTO RECOMMENDS THAT THE ADMINISTRATION, WITH THE SUPPORT OF CONGRESS:**

- Develop and encourage the use of model state-based programmatic agreements that stipulate a process for developing and using historic contexts, and eliminate case-by-case decision-making related to eligibility and treatment of similar resources.
- Develop a national programmatic agreement, with optional use by state DOTs, to define roles, and establish professional qualification standards.



- Define consistent approaches for assessing National Register eligibility and effects, with emphasis on the use of historic contexts.
- Provide appropriate funding for developing historic contexts.
- Develop guidance and training programs on creating and implementing programmatic agreements, developing and using historic contexts, evaluating National Register eligibility and preparing eligibility statements, and assessing effects on historic properties.



## **Modernize the Endangered Species Act to improve the Section 7 consultation process and better integrate it with the National Environmental Policy Act**

The Endangered Species Act (ESA) Section 7 directs all Federal agencies to conserve threatened and endangered species and in consultation with the U.S. Fish and Wildlife Service (FWS), to ensure that their actions do not jeopardize listed species or destroy or adversely modify critical habitat. The National Environmental Policy Act (NEPA) requires the evaluation of impacts to threatened and endangered species for transportation projects.

It is difficult to predict the timeframe and budget necessary to complete the Section 7 consultation process because there is a lack of consistency in consultation requirements. FWS staffing shortages also greatly increase the time required for the consultation process. In addition, FWS looks at projects individually, rather than taking a more streamlined, programmatic approach.

AASHTO believes that changes to the ESA Section 7 consultation process can streamline and improve this process and better integrate it with NEPA while preserving and enhancing species protection.

### **AASHTO RECOMMENDS THAT THE ADMINISTRATION, WITH THE SUPPORT OF CONGRESS:**

- Encourage FWS to develop more flexible programmatic and batch agreements to eliminate case-by-case decision-making.
- Develop a model for state-based programmatic agreements.

- Designate a lead FWS office in each State to improve consistency and efficiency.
- Foster actions that support the recovery of species rather than pursuing project by project approaches.
- Maintain updated, active plans for the recovery of species and develop plans where they do not exist.
- Establish dispute resolution protocols, including an issue elevation process, for Section 7 consultations.
- Clarify the relationship between ESA and other regulations (e.g., water quality criteria contained in the Clean Water Act).



## **Assess the impacts of mobile source air toxic emissions associated with transportation projects based on sound science and public health knowledge**

Environmental documents for transportation projects around the country are being challenged for not addressing the emission of mobile source air toxics. There are no national ambient air quality standards for these pollutants, and yet States and local areas are being asked to assess human health risks based on uncertain cause and effect calculations.

Human health risks associated with mobile source air toxics are of concern to transportation facility owners, regulatory agencies and to the general public. However, there is a lack of scientifically valid measurement and analysis tools for determining the potential effects of proposed transportation projects on nearby residents, workers and others. Substantial research, including scientifically valid measurement tools, risk assessment and the development of appropriate models, is needed to ensure that the health risk associated with transportation projects is properly assessed, communicated and is based on sound science and public health knowledge.

The U.S. Federal Highway Administration (FHWA) in coordination with the U.S. Environmental Protection Agency is undertaking studies to advance the body of knowledge related to mobile source air toxic emissions. FHWA is also preparing guidance to assist State and local transportation agencies in assessing air toxic emissions.

## **AASHTO RECOMMENDS THAT NEW AIR TOXICS GUIDANCE AND ASSOCIATED EFFORTS:**

- Provide scientifically objective information on health impacts, background levels, and other appropriate data to create a common language for communicating health risks.
- Set thresholds for significance and establish criteria that trigger a need for detailed analyses, including for example project scale and type.
- Identify variables, modeling techniques and data that would be required for a detailed analysis.
- Objectively summarize the state of the science regarding indirect or cumulative contributions of air toxics from multiple sources as well as ambient air levels.
- Identify technology-based mitigation strategies that address the vehicles and fuels, and which may be most cost-effective with respect to reducing the public health risk.



## **Secure long term funding federal funding solutions for intercity passenger rail service**

Passenger rail transportation supplements highway and airport capacity in congested and rapidly growing traffic corridors, and is a safe and environmentally responsible form of transportation. Since September 11, 2001 it is clear that rail offers an essential transportation alternative and contributes to a more dependable and resilient transportation system.

Intercity passenger rail funding uncertainties, the cyclical nature of state government budgets, and the continuing need to act upon the reauthorization of Amtrak have made it difficult to plan for the long term. Until comprehensive, long-term intercity passenger policy is enacted, Congress should provide the funding needed for intercity passenger rail to continue operation and not interrupt vital commuter rail services.

Any changes in the current system for the provision of intercity passenger rail service should fully consider the implications for all users, allow for reasonable transition, and prevent disruptions in current service.

### **AASHTO CALLS FOR THE ENACTMENT OF LONG-TERM LEGISLATION TO ENSURE THE NATION'S TRAVELERS WILL HAVE EFFICIENT AND DEPENDABLE INTERCITY PASSENGER RAIL SERVICE. AASHTO RECOMMENDS THAT THIS LEGISLATION:**

- Create a dedicated, sustainable source of funding for intercity rail passenger infrastructure improvements to maintain, in partnership with the freight railroads and other stakehold-

ers, a world class rail transportation network fueling economic growth and development.

- Pattern federal financing for capital and operating costs on the stable and very successful financing systems for the other transportation modes, with a dedicated source of funding and standard federal-state matching shares for infrastructure investment. This funding should not be authorized from the Highway Trust Fund.
- Ensure the level of federal responsibility necessary for sustainable financing and system integrity, quality and accountability.
- Establish a sound foundation for passenger rail service partnerships between the States and the Federal government.
- Incorporate sufficient flexibilities to enable the States to set their spending priorities and implementation timing based on their own unique circumstances, consistent with national rail transportation policy.



## **Promote Federal Investment in the Freight Rail Infrastructure**

A robust national rail network that moves freight efficiently across international borders, state lines, and within state boundaries is essential to this nation's continued economic growth and vitality.

The U.S. economy is growing, and with it the demand for freight transportation services. Today trucks and the highway system carry about 80 percent of domestic tonnage, the freight-rail system carries 16 percent, and barges and coastal shipping carry 6 percent. By 2020, the highway system must carry an additional 6,600 million tons of freight, and the freight rail system must carry an additional 900 million tons in order to maintain respective modal shares.

Freight rail is the nation's most capital intensive industry, requiring more than five times the amount of investment in plant and equipment than the average U.S. manufacturing industry. Since deregulation the rail industry has made tremendous progress and today has enough business and profit to operate but not to modernize its infrastructure.

As a result, investment in freight rail infrastructure by the industry will be insufficient to maintain rail's share of freight movement, much less increase it. Over the next 20 years this could lead to a shift of approximately 900 million tons of freight and 31 billion truck VMT to highways, costing shippers hundreds of billions, and requiring \$40 billion or more in highway costs.

Public investment will be required to boost rail's improvements to the levels needed.



SAFETEA-LU contains provisions intended to address this objective, and should be implemented aggressively:

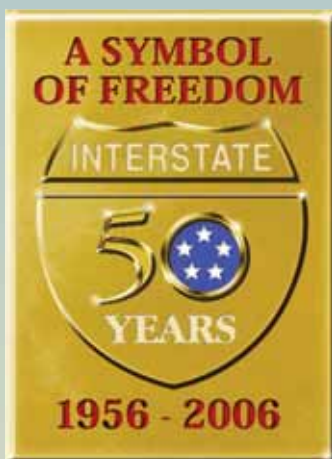
**AASHTO RECOMMENDS THAT THE ADMINISTRATION AND CONGRESS CONSIDER:**

- Changes in the tax code, such as investment credits, depreciation adjustments, and tax credit bond financing that would decrease the cost of capital for the freight rail industry;
- Intercity passenger rail legislation that would finance projects beneficial to both passenger and freight rail;
- Grant and credit programs that support public/private freight rail projects;
- Support for the development of public-private-partnerships for freight rail investment.









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