

## COMMITTEE ON DESIGN

### POLICY RESOLUTION

#### TITLE: REESTABLISHMENT OF FEDERAL TECHNICAL SUPPORT FOR MASH AND ADJUSTMENT OF THE IMPLEMENTATION AGREEMENT

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**WHEREAS**, The American Association of State Highway and Transportation Officials (AASHTO) and the Federal Highway Administration (FHWA) jointly developed an implementation agreement to transition roadside safety devices from compliance with NCHRP Report 350 to compliance with the *Manual for Assessing Safety Hardware* (MASH), and

**WHEREAS**, This agreement was developed with the clear understanding that each organization would continue its existing role, AASHTO and FHWA entered into the agreement in December 2015; and

**WHEREAS**, The implementation agreement included sunset dates for groupings of NCHRP 350 roadside safety devices from December 2017 through December 2019; and

**WHEREAS**, After the implementation agreement was approved by FHWA and AASHTO, FHWA significantly limited their role in providing technical expertise and testing guidance to states, manufacturers, crash test facilities, and the rest of the roadside safety hardware community; and

**WHEREAS**, In addition, FHWA began requiring that all tests be run for every device seeking a federal-aid eligibility letter, which is the first step in most states' qualification processes for new roadside hardware; and

**WHEREAS**, it is our understanding that some testing facilities have up to a 2 year backlog for tests, these facilities will not be able to complete the testing of safety devices in the timeframe required by the states to comply with the 2015 agreement.

**WHEREAS**, FHWA also set a target date of December 2019 to discontinue the technical reviews of crash test reports and the associated federal-aid eligibility letters; and

**WHEREAS**, The withdrawal of technical support by FHWA was not anticipated by AASHTO when the joint implementation agreement was approved; and

**WHEREAS**, This lack of FHWA's technical support has delayed development and testing of new MASH-compliant devices; and

**WHEREAS**, This withdrawal of FHWA's technical support has fundamentally hampered the ability of states and industry to meet the sunset dates; and

**WHEREAS**, Most states do not have the resources and depth of technical expertise needed to conduct reviews of crash tests to determine the crashworthiness of roadside hardware; and

**WHEREAS**, The AASHTO Technical Committee on Roadside Safety as a volunteer committee does not have the resources, in depth expertise, nor jurisdiction to assume the role previously performed by FHWA; and

**WHEREAS**, AASHTO has put forth considerable effort over the past year with two independent organizations to establish an unbiased, third-party review program to provide the technical support and the quality assurance reviews of crash test reports previously performed by FHWA; and

**WHEREAS**, Both independent organizations withdrew themselves from consideration after several months of negotiations; and

**WHEREAS**, Neither AASHTO nor FHWA has been able to identify an organization that is willing to fill the national-level technical assistance and review functions previously filled by FHWA; and

**WHEREAS**, AASHTO, states, and potential third parties have significant concerns with assuming legal liability by assuming this role; and

**WHEREAS**, it is critical that the Committee on Design continue to pursue goals of zero fatalities and serious injuries; increasing the pace of innovation; sustaining strong partnerships with the United States Department of Transportation, industry, and academia; and serving as a leader in innovating the safest transportation system in the world; now therefore be it

**RESOLVED**, that the Committee on Design remains committed to MASH Implementation as soon as practicable but recognizing that additional time is needed to sufficiently test safety devices, FHWA is requested to jointly establish new implementation timeframes with AASHTO; and

**RESOLVED**, That the Committee on Design formally requests the Federal Highway Administration to commit to resuming the previous level of technical support to the roadside safety community, including interpretation of issues related to crash testing, determination of critical crash tests, review of crash test results, and development of eligibility letters; and be it further

**RESOLVED**, That Committee on Design also formally requests FHWA provide sufficient staff, expertise, and funding in order to immediately return to previous levels of support; and be it further

**RESOLVED**, That Committee on Design recommends that Congress direct FHWA to provide ongoing technical support to the roadside safety community for crash testing, including interpretation of issues related to crash testing, determination of critical crash tests, review of crash test results, and development of eligibility letters; and be it further

**RESOLVED**, That Congress provide sustained, sufficient resources for these activities; and,

**RESOLVED**, That the Committee on Design urges FHWA headquarters to clearly communicate their decision-making processes and decisions with states and FHWA Division offices and to ensure Divisions are consistently implementing MASH in a practical manner; and finally be it

**RESOLVED**, That when a single MASH-compliant device is available that meets a state's needs, the state may use that device, and that FHWA will not require states to use MASH-compliant devices that are not suitable for their state.

Approved by the Committee on Design  
July 25, 2019 in Reno, Nevada