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REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL
OF THE UNITED STATES



Is It Achievable?

Department of Transportation

The national 55-mile-per-hour speed limit law was established to improve highway safety and fuel conservation. It has been somewhat successful--average speeds have dropped about 5 miles an hour, but many drivers are still speeding.

The Department of Transportation's efforts to increase State enforcement of the speed limit are limited by

- a reluctance to interfere with State responsibilities,
- lack of criteria to evaluate State efforts in reducing speeds,
- provisions of the law that have generated State resentment and could be counterproductive if used, and
- a lack of voluntary observance of the speed limit by many people.

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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report describes the implementation of the 55-mile-per-hour national speed limit law. We made this review to provide the Congress with current information on Federal and State efforts to reduce vehicle speeds and to identify factors inhibiting these efforts.

We made our review pursuant to the Budget and Accounting Act of 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Transportation; interested congressional committees; Members of Congress; and other interested parties.

A handwritten signature in black ink, reading "Luther A. Streats".

Comptroller General
of the United States

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ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
CB	citizens band
DOT	Department of Transportation
GAO	General Accounting Office
GM	General Motors
mph	mile per hour
NSC	National Safety Council



Department of Transportation

D I G E S T

The national 55-mile-per-hour speed limit law was enacted as a conservation measure after the 1973 Arab oil embargo. However, when the public felt the energy crisis had abated, speeds increased--many drivers now exceed the maximum speed limit. (See pp. 5 and 6.)

Although fuel has been saved and traffic fatalities have been reduced, especially during the first year when average speeds dropped about 5 miles per hour, more savings and driver cooperation were expected. When the crisis began, average speeds dropped, but they have been increasing slightly since then. Drivers have not complied with the limit because they do not believe the benefits are worth the inconveniences.

State police have tried to enforce the speed limit, but due to the large number of speeders they can only issue tickets to the most blatant violators. Limited money and staff and more pressing problems preclude any more emphasis on speed enforcement. (See pp. 11 to 13.)

To encourage drivers to stay within the speed limit, the Department of Transportation began public information campaigns. The major one emphasized driving the speed limit because "it's the law." This has had limited success, and the Department is in the process of modifying the campaign.

A broad public information campaign emphasizing the positive benefits of lower speeds possibly could convince more people to drive more slowly. However, it could be that nothing short of rigid traffic enforcement will reduce speeding.

Federal involvement in State traffic enforcement is a delicate issue. While the law specifically requires States to certify to the Secretary of Transportation that they are enforcing the speed limits, States object to Federal involvement in what they consider a State function.

At the same time, the Secretary of Transportation must withhold approval of all Federal-aid highway construction projects if a State fails to establish a maximum 55-mile-per-hour speed limit or to certify that it is enforcing the limit.

Although State officials doubt this sanction will ever be used, they resent its existence. To use the sanction could be counterproductive to the basic intent of the law. (See pp. 22 and 23.)

GAO recommends that the Secretary of Transportation:

- Establish criteria to evaluate what each State has done to reduce speeding or report to the Congress if such criteria cannot be established without intruding on State prerogatives.
- Institute a positive public information program emphasizing the continuing need to drive the speed limit as a way to conserve energy and improve safety. This program should be a cooperative effort with the individual States.

The Secretary believes more congressional guidance is needed before he can establish enforcement criteria. Without it he believes the Department is virtually powerless to achieve compliance with the 55-mile-per-hour speed limit.

The Secretary plans to expand the Department's public information program to incorporate GAO's recommendation.

The Congress should enact legislation to enable the Secretary of Transportation to implement a program of variable incentives or sanctions that provide each State with maximum flexibility

in reducing driver speeds. The Congress may wish to relate these incentives or sanctions to highway safety grants, law enforcement grants, or the apportionment formula for highway trust funds.

Factors evaluated in a variable incentive or sanction program might include the State's established maximum speed limits, enforcement practices, public information programs, penalties imposed on speeders, and the extent to which the public travels at 55 miles per hour. This approach would replace the requirements and sanctions provided by existing law. (See p. 29.)

CHAPTER 1

INTRODUCTION

On October 29, 1973, the energy crisis became a national reality when the Arab nations imposed an embargo on all oil exports to the United States. Although all petroleum users were affected, perhaps the greatest impact was felt by the motoring public. Gasoline stations shortened their business hours, which in turn forced many motorists to wait in long lines when the stations were open. In the flurry of executive and congressional actions taken to cope with the situation, the national 55-mile-per-hour (mph) speed limit law was passed. Initially enacted as a temporary measure, it was later permanently established. This report addresses various aspects of the law since its enactment, including (1) a discussion on the claimed benefits, (2) a presentation of the problems inhibiting full compliance by the motoring public, and (3) an assessment of the adequacy of Federal efforts to administer the legislative requirements.

EVOLUTION OF THE 55 MPH LEGISLATION

The need to conserve energy was recognized before the embargo. Efforts undertaken to reduce highway fuel consumption and promote safety through slower speeds were as follows:

- | | |
|---------------|--|
| May 3, 1973 | An advertising campaign with the slogan, "50 is thrifty," was started by a major oil company encouraging motorists to save fuel by driving slower. |
| May 24, 1973 | The Secretary of Transportation urged State Governors to reduce highway accidents and save gasoline by reducing driving speeds. |
| June 4, 1973 | The Senate adopted a resolution requesting States to lower speed limits. |
| June 29, 1973 | President Nixon requested State Governors to work with State legislatures to reduce highway speeds. |

After the embargo beginning on October 29, 1973, the following efforts were undertaken.

November 7, 1973	The President called on Governors to set maximum speed limits of 50 mph.
November 7 through November 26, 1973	Seventeen States voluntarily lowered speed limits to some extent and 12 more took some action toward reducing speed limits.
January 2, 1974	Emergency Highway Energy Conservation Act <u>1/</u> was signed into law. It prohibited the Secretary of Transportation from approving any Federal-aid highway projects in any State having a maximum speed limit in excess of 55 mph.
March 3, 1974	All 50 States had reduced maximum speed limits to 55 mph.

After the embargo was lifted on April 29, 1974, efforts continued.

January 4, 1975	Federal-Aid Highway Amendments of 1974 <u>2/</u> signed into law. prohibits the Secretary of Transportation from approving any Federal-aid highway construction projects in any State that fails to establish a maximum speed limit of 55 mph or fails to certify enforcement of the 55 mph speed limit.
March 6, 1975	The Department of Transportation (DOT) published preliminary rules to implement the legislation.

1/Public Law No. 93-239, §2, 87 Stat. 1046-1048.

2/Public Law No. 93-643, §§ 107, 114, 88 Stat. 2281, 2284, 2286 (hereafter referred to as the national 55 mph speed limit law).

September 9, 1975

Final rules published in
Federal Register.

January 1, 1976

First State certifications
of enforcement submitted for
period ended September 30,
1975.

ADMINISTRATIVE RESPONSIBILITIES

The administrative responsibility for the national 55 mph speed limit law is divided between the National Highway Traffic Safety Administration; the Federal Highway Administration; and the Office of the Secretary of Transportation, Department of Transportation. The Office of the Secretary develops public information programs, the Safety Administration analyzes State enforcement data, and the Highway Administration analyzes State speed-monitoring information. Both the Safety and Highway Administrations use the information the States submit in their certifications of enforcement. This information (see ch. 4) includes (1) copies of administrative orders and policies, (2) the number of citations issued for violation of the 55 mph speed limit, (3) a description of the State's speed-monitoring program, and (4) summary speed statistics derived from the data collected in their monitoring programs.

SCOPE OF REVIEW

We reviewed available information at DOT (Office of the Secretary, Safety Administration and Highway Administration). In addition, we met with law enforcement and highway department officials in five States--California, Louisiana, New Mexico, New York, and Texas. We also discussed the implementation of the 55 mph speed limit with the respective Highway Administration regional and district offices and Safety Administration's regional offices.

CHAPTER 2

ACCOMPLISHMENTS

The national 55 mph speed limit law has been in effect for nearly 3 years. In that time, several changes have occurred on the Nation's highways, such as

- decrease in the average speeds,
- increase in the percent of vehicles traveling at the same speeds,
- decrease in traffic fatalities and the fatality rate,
- decrease in the number and severity of accidents and injuries,
- decrease in fuel consumption in 1974,
- changes in traffic patterns and driving habits,
- changes in law enforcement methods and techniques, and
- changes in the amount and type of monitoring data collected and in the techniques for collecting such data.

The Safety Administration cites safety benefits as the major accomplishment under the law, especially the dramatic reduction in fatalities in 1974 and 1975. The Federal Energy Administration emphasizes that the speed limit law is one of the largest transportation energy conservation measures we have and that transportation consumes over half this country's petroleum.

EXPECTED BENEFITS

Although the temporary speed limit law was passed primarily to conserve fuel, the permanent law recognized both safety and fuel savings as benefits. During congressional consideration of the permanent speed limit, the Safety Administration estimated that fatalities in 1974 and later years would drop by 1,000 each month from base year 1973 data. The National Safety Council (NSC) and the American Association of State Highway and Transportation Officials (AASHTO) attributed about half the fatality reduction to slower and more uniform speeds. The Federal

Energy Administration estimated the fuel savings would be between 100,000 and 200,000 barrels of oil a day.

BENEFITS ACHIEVED

Speed reduction

According to the Highway Administration, speed-monitoring data must be used with caution because speed data submitted by the States are not strictly comparable among States or from one period to the next within States. The reasons for this include

- changes and differences in the monitoring techniques in many States,
- changes in the number of States voluntarily submitting data to DOT before 1975, and
- differences in time periods covered by State reports.

In addition, the data are based primarily on spot speed studies and are not necessarily representative of actual statewide speeds.

Recognizing the limitations in reliability of the speed-monitoring data, some general observations can be made. Between 1973 and 1974, average speeds on primary roads decreased about 5 mph to just over 55 mph. Speeds on interstate highways during the same period decreased by about 7 mph to an average of about 58 mph. Speeds have been increasing slightly in many areas since 1974. Although all five States we visited did not follow the national trend, average speeds were as follows. 1/

	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>Quarter ended 6-30-76</u>
California	(a)	57.0	56.5	54.8
Louisiana	(a)	(a)	53.1	53.1
New Mexico	64.7	57.2	58.9	57.0
New York	(a)	53.9	55.4	52.9
Texas	63.5	56.6	55.9	58.4
National	60.3	55.3	55.6	55.8

a/Not available

1/Based on data submitted by the States. (See p. 18.)

In 1975, most States had average speeds over 55 mph. On rural interstate highways, 14 States observed that at least 75 percent of all vehicles exceeded the 55 mph speed limit. In 15 States, 10 percent or more of the vehicles on rural interstates were traveling over 65 mph. The five States we visited showed:

Rural Interstate Highway Speeds in 1975

	<u>Percent over 55 mph</u>	<u>Percent over 65 mph</u>
California	80	8
Louisiana	37	(a)
New Mexico	72	16
New York	85	17
Texas	68	7
a/Not available		

Safety improvements

The 55 mph speed limit has improved safety because (1) the risk of death or serious injury in an accident is less at lower impact speeds and (2) traffic flows at more uniform speeds, reducing the chance of accidents.

After the national speed limit law was imposed, fatalities dropped dramatically. In 1973, U.S. fatalities were 55,096; in 1974 they dropped to 46,049--a reduction of about 16 percent. In addition, there were about 200,000 fewer injuries in 1974 than in 1973. Deaths and injuries in 1975 and 1976 have remained significantly lower than in 1973. However, the lower speed limit was only one factor related to the reduction in deaths and injuries. Others included

- fewer miles driven because less fuel was available,
- improved driver habits and attitudes brought about by the energy crisis and various highway safety programs,
- better law enforcement, and
- changes in travel patterns (less night and weekend travel when a higher percentage of fatalities occur).

We reviewed over 30 studies about improvements in highway safety since 1973, which tried to identify the causes for reduced fatalities in 1974 (see app. I for bibliography of studies). These studies were sponsored by Federal and State agencies as well as nongovernmental organizations. Although all studies recognized the safety benefits of lower speeds, less than half the studies estimated the degree of savings attributable to the 55 mph speed limit. These estimates varied widely. The results of three studies are presented below showing the variations in factors surrounding the 1974 fatality reduction. These studies were done by AASHTO, NSC, and General Motors (GM), and all three calculated about the same overall fatality reduction.

<u>Factor</u>	<u>Percent of savings</u>		
	<u>AASHTO</u>	<u>NSC</u>	<u>GM</u>
Reduced and/or more uniform speeds	48	46	35
Reduction in travel	22	21	25
Reduction in vehicle occupancy	-	13	-
Reduction in night driving	-	8	24
Switch in roads used	-	4	1
Switch to weekday driving	-	-	5
Greater use of safety belts	-	4	-
Historical trend	-	-	a/14
Other	b/30	c/8	-
Decrease in safety due to age of drivers, use of small cars, motorcycles, and pedal cycles	-	-4	-5
Total	<u>100</u>	<u>100</u>	d/ <u>100</u>

a/Includes better roads, better cars, and increased use of safety belts.

b/Includes improved driver behavior, daylight savings time, safety belt usage, better roads, cars, and traffic programs.

c/Includes better cars, roads, and law enforcement.

d/Does not add due to rounding.

The additional changes in these and other factors in 1975 and 1976 make isolating the 1975 and 1976 savings attributable to the 55 mph speed limit even more difficult. In the 1977 appropriation hearings, the Secretary of Transportation said:

"We have found that no accurate estimate can be made on the overall safety impact of the 55-mile-per-hour speed limit, but there should be high confidence that a large portion of the reduction in fatalities is due to the direct or indirect benefits of the new 55-mile-per-hour speed limit."

Fuel savings

Like safety, other factors have affected fuel consumption since the 55 mph speed limit was established, such as

- a switch to smaller, more economical cars in 1974;
- reduced availability of fuel early in 1974;
- recent increases in new car fuel economy;
- improvements in traffic flow due to better highways and improved urban traffic control;
- increased use of radial ply tires;
- higher fuel prices which have increased owners' attention to improved vehicle maintenance and driving habits.

Early in 1974 the Highway Administration estimated that if all vehicles traveled at 55 mph on the highways, 200,000 barrels of fuel could be saved a day. This amounts to about 3 percent of the total U.S. fuel consumption for highway transportation.

We reviewed studies of recent fuel-use reductions by organizations in and out of Government to find out how much fuel savings is attributable to the 55 mph speed limit. These studies generally showed that theoretical savings could be as high as the Highway Administration estimate, but actual savings were less.

For example, a study by Braddock, Dunn and McDonald, Inc., dated September 27, 1974, for the National Science Foundation, calculated that if there was strict compliance with the 55 mph speed limit, the theoretical fuel savings would be 200,000 barrels a day. However, after examining motor vehicle gasoline consumption trends and traffic volume trends during the winter of 1973 and the spring of 1974, the study concluded that there was no actual improvement.

The Mitre Corporation submitted a May 1975 report to the National Science Foundation which showed that 255,000 barrels of fuel a day were saved in 1974 from 1973 levels. However, according to the report, only about 71,000 barrels could possibly be attributed to the combined effects of the 55 mph speed limit and more fuel-efficient cars.

In August 1975, the Safety Administration estimated the savings in fuel based on gross gasoline sales, travel, and speed data. These estimates attributed a daily fuel savings of between 82,000 and 126,000 barrels (1.1 to 1.8 percent of total motor fuel consumption) to the 55 mph speed limit.

A Highway Administration study released in October 1976 estimated that reduced speeds saved somewhere between .8 and 2.9 percent of total 1975 highway fuel consumption.

CONCLUSION

Since the Congress passed the national 55 mph speed limit law, average speeds have decreased about 5 mph. However, many drivers, particularly on rural interstate highways, are exceeding the speed limit and speeds are increasing slightly. The impact of the speed limit on safety and fuel conservation cannot be accurately estimated, but both have improved due, in part, to the lower speed limit. However, the savings appear to be less than initially anticipated partly because not everyone has complied with the speed limit.

CHAPTER 3

PROBLEMS IN ACHIEVING WIDESPREAD PUBLIC

COMPLIANCE WITH THE 55 MPH SPEED LIMIT

We believe the widespread use of speeds over the 55 mph speed limit indicates that the Nation's motorists do not think that the fuel savings or the safety benefits of driving slower are worth the inconveniences. This lack of voluntary compliance places a heavy burden on State law enforcement agencies. Although enforcement agencies in the States we visited generally have not received additional manpower or resources, they have tried a variety of programs to enforce the speed limit.

Increased enforcement nationwide has resulted in more speeding citations issued, but has not produced overall speed reductions since 1974. In view of States' other enforcement priorities and limited resources, additional State emphasis on speed limit enforcement could adversely affect other State needs. In addition, some State enforcement agencies believe several aspects of the 55 mph speed limit have contributed to the growing disrespect for laws and law enforcement officials.

In addition to these general problems in enforcing the 55 mph speed limit, other factors beyond the control of law enforcement agencies restrict speed enforcement uniformity among the States. The differences between types of highways, traffic densities, enforcement techniques available, and penalties assessed make uniform nationwide enforcement impossible.

VOLUNTARY COOPERATION

Ideally, drivers would agree that the benefits of driving at 55 mph exceed the costs and therefore, would obey the limit. Failing that, drivers would respect the 55 mph limit because it is the law. However, in view of the widespread use of speeds over 55 mph, it seems clear that voluntary cooperation has not been fully successful.

Historically, speed limits have been assigned with a high degree of voluntary cooperation built in. Speed limits generally were set at or about the 85th percentile speed, which is the speed that 85 percent of the vehicles meet or travel slower than. This is the speed the vast majority of drivers chose as being reasonable and safe, recognizing all

the conditions existing on each particular segment of roadway. This method isolated 15 percent of the drivers who traveled faster than what was generally considered reasonable and safe. After allowing for speedometer error, this small group of drivers usually was issued citations. This method of establishing speeds generally was accepted by traffic engineers, motorists, enforcement agencies, and the courts.

In 1975, the 85th percentile speed in most States was over 60 mph and ran as high as 68 mph. According to State officials, the public would not voluntarily comply with the speed limit because many did not see the need. Many citizens, they said, viewed the 1973-74 gas lines as a conspiracy by the oil companies to raise prices, and now that the prices are up, there is plenty of fuel. They believe new technology will satisfy future needs. We believe the public generally does not perceive the benefits in safety and fuel savings to be worth the extra time spent on the roads. State officials concluded that without a significant change in public attitudes and opinions, drivers will not further reduce their speeds voluntarily.

ENFORCEMENT

In 1975 about half of the States reported more drivers exceeding the 55 mph speed limit than complying with it. This puts a much larger burden on enforcement agencies than they had when speed limits were set so that only 15 percent of drivers exceeded the limits. State enforcement agencies said that too many drivers exceed the speed limit for them to enforce it effectively.

General factors affecting enforcement

In four of the five States we surveyed, resources committed to enforcing speed limits have remained relatively constant in recent years. Although enforcement agencies have requested additional personnel and equipment, State legislatures generally have not provided these funds.

The Safety Administration administers traffic enforcement grants under the Highway Safety Act of 1966 (Public Law 89-564) for State highway safety programs. The distribution of the funds between traffic enforcement and other highway safety activities is established by each State on the basis of its own particular needs. Some of these funds are used to enforce the 55 mph and other speed

limits as part of police traffic services. The Safety Administration estimates that roughly 25 percent of its enforcement funding to the States is used to enforce the 55 mph speed limit. However, Federal funds represent less than 1 percent of about \$2.5 billion spent annually for police traffic services.

Given the limited resources, State enforcement agencies have tried various speed enforcement techniques, such as disguising their cars, cruising in teams, utilizing sophisticated new radar units, and trying other techniques. The result has been an increase in speeding arrests from 4 million in 1973 to 6 million in 1974 to over 7 million in 1975. In spite of these efforts more drivers are violating the 55 mph speed limit than violated previous higher speed limits.

State enforcement agencies have many duties in addition to enforcing speed limits, such as assisting at traffic accidents, quieting local disturbances, apprehending intoxicated drivers, assisting stranded motorists, checking for illegal drugs, and patrolling high-accident locations. Since enforcement resources are limited, increasing emphasis on one responsibility reduces resources available for other responsibilities. Although State officials recognize the need for speed enforcement, they said that some of their other responsibilities require a higher priority for their limited resources.

For example, State officials explained that many of the higher speed roads, particularly interstate highways, have lower accident rates than secondary roads. They said that one of their high priority efforts is to patrol where the accidents are happening, which means patrolling secondary roads. However, State officials said that if they emphasize enforcement on secondary roads to combat accidents, speeds increase on the interstate and primary highways.

Oregon State Police ^{1/} have analyzed this resource allocation problem in some detail. In terms of highway emphasis, Oregon State Police devote about one-third of their traffic patrol time to freeways, but only 6 percent of Oregon traffic fatalities are occurring on freeways. This leaves the other roads, on which 94 percent of

^{1/} We did not review Oregon's program, but have relied on statements by the Oregon State Police Superintendent to the Safety Administration.

fatalities occur, a proportionately smaller patrol coverage. In terms of traffic enforcement emphasis, 53 percent of total traffic arrests have been for speeds over 55 mph. However, only 5 percent of the driving errors in Oregon's fatal accidents have been attributed to excessive speed that may or may not have been over 55 mph.

Oregon State Police believe that spending so much time on the enforcement of one law has affected the enforcement of other accident-causing violations. For example, 20 percent of the driving errors in Oregon's fatal accidents were for being on the wrong side of the highway, but this violation has received proportionately less emphasis than speeds over 55 mph.

The increased use of citizens band (CB) radios and radar detectors has had an impact on enforcement in the past few years, according to some State officials. They said that evading enforcement has become a game and a battle of wits between the police and the public. In addition, many drivers simply have become accustomed to exceeding the posted limit. Some State officials said that the States have been given the responsibility for enforcing an unpopular law. These factors have contributed to a loss of morale and prestige among enforcement personnel and to the growing disrespect for laws and law enforcement officials.

According to State enforcement officials, the impact of CB radios is not all bad. They said that drivers using CB radios are more aware of the locations of enforcement personnel so that they can slow down before being caught. However, because the word is spread that the police are patrolling, more drivers slow down--which is the intended effect of speed enforcement. In addition, they said CB radios are sometimes used to report accidents, unsafe drivers, or other trouble on the highways.

Factors impeding uniform enforcement

Enforcement is influenced by factors beyond the control of enforcement agencies. Personnel and equipment provided are good examples. However, other factors resulting from State legislatures, courts, or conditions within the States influence enforcement. Among these factors are (1) types of highways, (2) traffic density, (3) enforcement techniques available, and (4) penalties assessed.

Differences exist among the States' highways because of historical development, terrain, and land use.

Some States have newer roads with few curves over flat, open terrain. However, others have older roads through mountains. Not only do these roads have different "safe" speeds, but enforcement possibilities are different. A police car can be concealed on mountain roads or in congested areas easier than in flat, open areas.

Traffic volume varies considerably among the States. States with many miles of sparsely traveled roads indicate that it is less feasible and less desirable to assign the same number of police to these roads as to roads in more heavily traveled areas, even when speeds may be equal.

The techniques available to enforcement agencies vary among the States. While one State may mount a campaign based on heavy use of radar to enforce speeds and/or use concealed identity police cars, another State may be precluded by law from using either radar or concealed vehicles for enforcement.

Penalties assessed to speed violators differ among the States. Fines for speed violations range from a set fine of \$5 to a fine of \$1,000. Some States have point systems against licensed drivers while other States do not. One State allowed some violators to avoid penalties entirely by not following up on violators who skip their court appearances.

In addition, many States have variable penalties, including both fines and/or points, depending on the seriousness of the offense. Speed violations within 5 or 10 mph of 55 mph are frequently assigned lower penalties than offenses at higher speeds.

The many variables among the States lead officials to conclude that what constitutes effective enforcement in one State may be ineffective or impossible in another.

CONCLUSION

Drivers have not complied with the 55 mph speed limit because they do not believe the benefits are worth the inconveniences. Because so many drivers are violating the speed limit, enforcement agencies must let many speeders go by and just issue tickets to the most blatant violators. Limited enforcement resources and other State enforcement needs preclude any long-term additional State emphasis on speed enforcement. Although there are difference in speed enforcement among the States, the differences are often beyond the control of enforcement agencies.

CHAPTER 4

FEDERAL ADMINISTRATION OF THE LAW

To encourage voluntary public compliance with the speed limit, the Department of Transportation has recently initiated two public information campaigns and States have initiated their own campaigns. In spite of these Federal and State efforts, many people still appear unwilling to drive 55 mph or slower.

The law gives the Secretary of Transportation the responsibility to withhold approval of highway construction projects in States that do not establish a 55 mph speed limit or fail to certify they are enforcing the speed limit. DOT has required the States to supply speed-monitoring and enforcement data as part of the certifications. However, the speed-monitoring data is currently not reliable and the enforcement data requested does not fully describe State enforcement efforts.

In reviewing the first State certifications that were due January 1, 1976, DOT concluded that the States had made a good faith effort to meet the law's requirements. However, many State certification packages did not contain all the required data. DOT has taken actions to increase the amount of data provided for the next certification, due January 1, 1977. However, it has not defined enforcement or established how much enforcement or overall speed compliance is sufficient for certification.

State officials we talked with did not believe that the sanction (failure to approve projects) would be used. Because of legal and political problems associated with the sanction, States said that if DOT attempted to use the sanction, they would appeal to the courts or the Congress. The sanction threat has caused State resentment and, if successfully used, could have an adverse impact on highway safety because safety is enhanced by the construction of new limited access roads and adequate maintenance of existing roads.

PUBLIC INFORMATION

DOT recognized in the early stages of the program that widespread observance of the speed limit depended less on law enforcement efforts than on the public's willingness to cooperate. Now that there are no gas lines as a daily reminder of fuel shortages, DOT said Government must fall back on public information campaigns to maintain a sense of public urgency about energy conservation. DOT has promised

to do its part to promote public understanding through a nationwide media campaign.

The Office of the Secretary has been responsible for DOT's two major public information campaigns. One of these campaigns is the "Mr. 55" campaign. The purpose of "Mr. 55" is to get support for the 55 mph speed limit from organizations both in and out of Government. "Mr. 55" started speaking to various organizations around the country in late April 1976 and has continued to the present.

The other campaign has involved nationwide advertising. A contract was issued with the Advertising Council in September 1975--with a \$260,000 budget--to develop a public information program to be distributed to States and the media.

The slogan developed was, "Speed Limit 55. It's not just a good idea. It's the law." (See diagram below.) A DOT official told us that between April and July 1976, the message had been carried by about 300 newspapers, 1,100 radio stations, and 400 television stations at no charge to the Government.



**It's not just
a good idea.
It's the law.**

Several State officials said that the benefits of driving slower should be emphasized rather than threatening the public that they should comply because it is the law. As one State official put it, "It is not sufficient merely to say that 'It's the law.' We all recall that Prohibition also was once a law." As of September 3, 1976, only eight States had taken advantage of DOT's offer of free material in quantities for State distribution. To obtain better acceptance of its public information campaign, DOT has changed its slogan to "Speed Limit 55. It's a law we can live with."

A Safety Administration official told us that many States have initiated their own public information campaigns. Ten States have ongoing campaigns involving all media. Other States have done less extensive advertising to various degrees. These State campaigns have emphasized the benefits (safety and fuel conservation) and efforts by the police to enforce the speed limit. The Safety Administration has been helping the States communicate with each other about their ideas for public information programs.

Some State enforcement agency officials said that the Federal Government's failure to initiate a timely public information campaign contributed to the public's lack of concern for the need and benefits of the 55 mph speed limit.

Studies have been done recently on public attitudes toward the 55 mph speed limit, indicating that most drivers are aware of its safety and fuel conservation benefits. For example, a study by several agencies in the State of Georgia showed the following public recognition of the speed limit's benefits:

<u>Benefit of 55 mph speed limit</u>	<u>Percent agreed</u>
Saves lives	72
Saves gas	70
Reduces accidents	68

However, speed monitoring in Georgia showed the following percentages of vehicles exceeding the 55 mph speed limit:

<u>Period</u>	<u>Percent exceeding 55 mph</u>
Year ended 9-30-75	62
Quarter ended 12-31-75	56
Quarter ended 3-31-76	66
Quarter ended 6-30-76	69

It appears that speeding is similar in a way to smoking; people know it can be hazardous to their health, but they do it anyway.

DATA REQUIRED FROM THE STATES

The Secretary of Transportation is not authorized to approve any Federal-aid highway construction projects in any State that fails to establish a maximum 55 mph speed limit or that fails to annually certify that it is being enforced. DOT has issued regulations requiring States to submit data on speed monitoring and enforcement in addition to the certification statement by the Governor or his representatives and copies of State laws, regulations, or administrative orders relating to enforcement of the 55 mph speed limit. According to DOT, without the information required by the regulations, the statutory requirement that the State certify enforcement of its speed limits would be so vague it would lack meaning.

Speed-monitoring data

Most States had developed some type of speed-monitoring program before the 55 mph speed limit law was enacted. The programs consisted primarily of spot speed studies conducted at selected locations on main rural roads. In recent years, 35 to 40 States had been submitting the speed-monitoring data to DOT.

DOT has required the following detailed speed-monitoring data to be submitted as part of the annual certification.

1. A description of the State program for monitoring speeds for the 12-month period ending on September 30 before the date by which certification is required, including the number of stations for each type of highway, the basis for determining the number and location of stations, the frequency and duration of operations, and the total sample size and basis for sample selection.

2. The summary statistics derived from the data obtained from the monitoring program, classified according to highway type (interstate rural, interstate urban, other multilane divided rural and urban, major nondivided rural, etc.), indicating the average speed, the median speed, the 85th percentile speed, and the percent of motorists exceeding 55, 60, and 65 miles per hour for the 12-month period ending on September 30 before the date by which certification is required.

In addition, DOT has requested quarterly speed-monitoring statistics and the Highway Administration has been observing the State monitoring efforts. State officials we contacted generally indicated that the monitoring requirements did not cause an unreasonable administrative burden, but some indicated that such requirements generated additional paperwork and increased monitoring efforts and costs.

In addition to the Highway Administration's reservations regarding the monitoring data (see p.5), we noted some serious questions about the data's accuracy. In two of the States we visited, the monitoring vehicles were not concealed and could appear to be police cars. Tests have shown that with the increased use of CB radios and radar detectors, motorists observe suspicious-looking vehicles and slow down. State officials agreed that speeds obtained under such conditions may not be representative of typical speeds traveled. One State further reduced the reliability by combining data from dissimilar studies and failing to use weighted averages in reporting statewide speed-monitoring results.

Enforcement data

DOT has required the States to submit the following enforcement information:

1. The number of miles of State highways having posted or allowable speeds of 55 miles per hour.

2. The approximate portion of the mileage on which the State has patrol responsibility, including portions on which the State shares responsibility with local law enforcement agencies.
3. The State administrative orders or instructions regarding enforcement agency policy on enforcement of the 55 mph limit.
4. The number of citations issued by State agencies for violation of the 55 mph speed limit during each month of the 12-month period ending on the September 30 before the date by which certification is required.

According to State officials, however, this information does not adequately describe the full extent of State enforcement. Additional factors include

- extent of State efforts to publicize ongoing police activity in an effort to bring speeds down,
- degree of visibility of patrol activities,
- extent of use of written and verbal warnings,
- the penalties established by State laws for speed violation both in fines and possibilities for driver's license revocation,
- the practices of the States' courts regarding speeding cases, and
- the need for enforcement on particular highways.

DOT considered defining enforcement but rejected the idea as being "too intrusive on State prerogatives." DOT recognizes that enforcing speed limits has been traditionally, and remains, a State responsibility.

DOT'S REVIEW OF STATE CERTIFICATIONS

There is no specific language in the Federal-Aid Highway Amendments of 1974 directing the Secretary of Transportation to review the sufficiency of State certifications to determine whether the certification accords with the State's actual enforcement practices.

DOT believes it has authority to question and reject the State certifications as discussed in appendix II.

The Highway and Safety Administrations reviewed the first State certifications that were due January 1, 1976, and concluded that "the States have made a good faith effort to meet the requirements of the law." However, our review disclosed that 36 State certifications did not contain all the required information. The missing information involved virtually all elements required by the regulations, but all States submitted more than half of the elements. DOT realized before our review that some information was not supplied and said that some of the problems resulted from time constraints imposed on the States. DOT has taken actions to increase the amount of data provided for the next certification due January 1, 1977.

ENFORCEMENT CRITERIA

In the initial March 1975 proposed rules, DOT stated that it would not specify an acceptable level of enforcement or a minimum level of speed limit observance. However, it suggested that a reasonable goal would be to increase the level of public observance of the speed limit to 70 percent in 1975, 80 percent in 1976, and 90 percent in 1977 and subsequent years. After receiving comments from the States, DOT agreed that the goal was ambitious and, as many States pointed out, accomplishing it would depend less on law enforcement efforts than on the public's willingness to cooperate.

States must certify that they are enforcing the 55 mph speed limit, but there is no definition of enforcing. Enforcement can include any activities from simply a threat of apprehension to imposition of a fine, revocation of a driver's license, or imprisonment. Police activity could range from one patrolman on one highway to one patrolman following every driver. Fines could range from one dollar or less to a fortune. The impact of a speeding violation on the violator's driver's license could range from no impact to an immediate revocation. The variety of State laws and existing conditions complicate the situation. In our opinion, defining a sufficient level of enforcement would be an extremely difficult task at best.

Although all States have certified that they are enforcing speed limits, none of the five we surveyed were clear on the level of enforcement required for certification. They said that they are doing all they reasonably

can to keep speeds down, and feel that this must be sufficient. Most of the State officials we talked with insisted that before DOT can say State enforcement efforts have not been sufficient, DOT must publish enforcement criteria. They believe that without published enforcement criteria, DOT has no basis for considering any action against the States.

POSSIBLE USE OF THE SANCTION

The law authorizes the Secretary of Transportation to withhold approval of highway construction projects under 23 U.S.C. 106. Section 106 project approval is not authorized unless a State has established a maximum speed limit of 55 mph and certifies that it is being enforced.

None of the five States we reviewed considered the sanction to be a serious, immediate threat. In addition to the lack of criteria on which to base a decision to sanction, the economic impact could be so severe that the use of the sanction might be politically unfeasible. Some States cited the increase in unemployment that would result from using the sanction. Most said there would be an almost immediate severe impact on State construction. However, in one State we visited, State officials estimated that with their current backlog of approved projects, highway construction could continue for about 2 years.

Although none of the five States we visited questioned DOT's basic authority to withhold project approval, there has been some question regarding DOT's authority to use speed and enforcement data to question the Governor's certification statement that the State is enforcing the speed limits. To obtain approval of Federal-aid highway projects, the law requires States to establish speed limits of 55 mph or less and to certify that they are enforcing the speed limits. However, the law has no specific language directing DOT to request additional data or to interpret the data for possible use of the sanction.

Officials in most States said that they have not officially challenged the sanction provision of the Federal speed limit law because DOT has not yet attempted to sanction any State. However, if the Federal sanction was attempted, they believe their States would appeal to the courts or the Congress for relief.

Some State officials expressed resentment over the threat of Federal sanctions. They said that the discussion of sanctions for lack of adequate enforcement implies that the States are not sufficiently self-motivated to enforce

speed laws. It also implies, they said, that the States are not sufficiently interested in traffic safety or fuel conservation. State officials were also concerned over what they see as Federal intrusion into speed enforcement, which has always been regarded as a State function.

Other State officials resent DOT's unwillingness to take the Governor's certification statement of enforcement at face value. One State official said that any effort to request additional information or otherwise question the certification statement implies that the Governor would lie in his statement.

If somehow the sanction were used, it could have an adverse impact on safety and fuel conservation. In the short term, some State officials said, highway maintenance would suffer. In the long term, the loss of Federal funds would mean fewer new limited access roads, which are inherently safer, would be built. Fuel economy could, in our opinion, be hurt because good economy depends on smooth, even traffic flow, which is provided by well-maintained limited access roads.

Some State highway department officials said that the sanction is misdirected because police rather than highway departments are responsible for enforcement. However, in our opinion, if it were possible to reduce Federal funds to enforcement agencies, the first effort cut might be enforcement of the 55 mph speed limit.

CONCLUSION

There have been several Federal efforts to increase voluntary public compliance of the 55 mph speed limit, but since 1974 speeds have not decreased. A broad DOT-funded public information campaign emphasizing the positive benefits of lower speeds could possibly convince more drivers to voluntarily reduce speeds. It could be, however, that nothing short of rigid traffic enforcement will significantly affect further reduction of vehicle speeds.

Federal involvement in State traffic enforcement is a rather delicate issue. While the law specifically requires States to certify that they are enforcing the speed limits, States object to Federal involvement in what they consider a State function. DOT has recognized the problem by not defining enforcement or specifying an acceptable level of enforcement or minimum level of speed observance.

Although it has not defined enforcement, DOT has requested the States to submit speed-monitoring and enforcement data as part of the State certifications of enforcement. In our opinion, the speed-monitoring information currently is not sufficiently reliable in all States for use in consideration of Federal sanctions or incentives. Although improvements are being made, it will be several years before reliable data exists that will accurately indicate speed trends.

The enforcement data requested as part of the State certification of enforcement does not, in our opinion, provide a complete picture of State enforcement efforts. Many factors other than those requested by DOT can reflect State speed enforcement efforts.

The lack of enforcement criteria and the severity of the sanction provided by law lead us to conclude that the sanction is virtually an empty threat. The threat has, however, generated State resentment. If the sanction were used, it could have a negative impact on highway safety and fuel conservation, which is opposite of the law's intent.

CHAPTER 5

CONCLUSIONS; RECOMMENDATIONS AND AGENCY COMMENTS

CONCLUSIONS

The national 55 mph speed limit law initially was enacted as a temporary measure during the Arab oil embargo and was made permanent about a year later. The permanent law, enacted to reduce traffic fatalities and energy consumption, has been somewhat successful. Both traffic fatalities and energy consumption have decreased; however, the decreases cannot be attributed wholly to the reduced speed limit. Getting drivers to comply with the speed limit is one way to achieve additional benefits in both of these areas. Although improvements in highway safety and energy conservation continue to be areas of national concern, the majority of drivers monitored in most States are exceeding the speed limit.

Since the 55 mph law has been in effect, State enforcement agencies have issued many more speeding tickets and have attempted new, innovative techniques to catch speeders. In spite of these efforts, more than half the drivers monitored in the States we visited exceed the 55 mph speed limit, although speed limits historically have been set so that only 15 percent or less of the drivers exceed the posted limits. Drivers probably exceed 55 mph because they feel that there is no longer an energy crisis. More drivers might obey the speed limit if they accepted the objectives of the speed limit law. Successful public information campaigns could be developed to improve public acceptance of the law.

Some public information campaigns have been initiated at the national and State levels. Much of the Federal campaign has been directed toward emphasizing that "it's the law" and therefore should be obeyed. However, this approach has not been completely successful, and DOT is in the process of modifying the campaign. The campaign should be pitched toward the positive, beneficial aspects that each individual driver could accept and subscribe to.

There are two controversial aspects of the Federal law that need to be resolved before the law can be fully effective: (1) what specific criteria should be developed and used to judge State enforcement efforts and (2) is the penalty provided by the law, for all practicality, an empty threat.

How much enforcement is enough? It is essential that criteria be established so that the States can evaluate if their efforts are sufficient. As it now stands, the States are required to submit data substantiating that the 55 mph speed limit is being enforced. However, the Secretary of Transportation has not established specific criteria to determine adequate enforcement. Therefore, the States must speculate whether their enforcement efforts are sufficient.

Establishing Federal enforcement criteria could have an impact on the States' historic role in traffic enforcement. Any criteria established to evaluate State efforts should give States flexibility in getting drivers to reduce speeds, including such factors as enforcement, public information campaigns, and penalties imposed for speed violations. If satisfactory criteria cannot be established without intruding on State prerogatives, the Department of Transportation should take this problem to the Congress considering the impact that the lack of criteria may have on the practical application of any positive or negative incentives provided by law. However, we believe that if compliance-oriented criteria were established, some of these problems might be alleviated.

The law gives the Secretary of Transportation authority to withhold approval of all Federal-aid highway projects for any State that fails to establish and post a 55 mph maximum speed limit or fails to certify enforcement of the speed limit. This sanction is the only legal tool the Secretary has to encourage States to establish and enforce a 55 mph speed limit. If the Secretary were to impose the sanction, it could have an adverse impact on the highway safety objectives of the law. Without Federal funds, State officials said, highway maintenance would suffer. New limited access roads, which are inherently safer, would either be delayed or not built at all. The loss of these funds would also severely affect the State's construction industry and could lead to increased unemployment and economic depression. The States believe that these consequences are so severe that the Secretary would not impose the sanctions.

Traffic enforcement always has been the right and duty of the States. Since the States are responsible to enforce the law, a strong spirit of cooperation must exist between the States and Federal Government before an effective program is established to achieve widespread public acceptance and adherence to what, in practical effect, is a federally imposed 55 mph speed limit. Such a cooperative environment would be easier to achieve if the States were not threatened with severe sanctions for failing to enforce State speed laws.

In our opinion the sanctions are so severe that

--if they were invoked it would impose extreme hardship on the State and be counterproductive to safety,

--the States generally regard them as an empty threat, and

--they interfere with achieving a cooperative State-Federal relationship.

There are alternatives that would be less objectionable and perhaps more positive and productive than the severe sanction provided by the current law. One alternative would be to drop this penalty clause entirely and rely on voluntary cooperation by the States and a positive public information program emphasizing the continuing need to conserve energy and reduce highway fatalities. This was the case in November 1973 when the need to conserve energy was clearly seen, and most States voluntarily reduced their speed limits or took some action in that direction even before the national law was enacted.

Another alternative would be variable sanctions. The Secretary of Transportation could be given the flexibility to set a sanction to fit the needs of each particular situation.

A third alternative would be a positive incentive to the States which do a particularly good job of reducing speeds or keeping them low. Positive or negative incentives could be tied to highway safety grants, law enforcement grants, or the apportionment formula for highway trust funds.

Each of these alternatives has both advantages and disadvantages from the present sanction. The primary disadvantage of all three is the risk that some States may cooperate less in reducing vehicle speeds. This risk may be greatest with the voluntary cooperation alternative. The degree of cooperation under variable sanction or positive incentives probably would depend on the amount of Federal funds involved.

Reliance on voluntary State cooperation may have the greatest risk, but it also has some rather attractive advantages. It could reduce the paperwork requirements at both State and Federal levels in developing and reviewing the data required for enforcement certification. It might

reduce the potential impact of the problems with speed data reliability discussed in chapters 2 and 4. In addition, it would improve the State-Federal cooperative relationship by eliminating the Federal club in traffic enforcement, an area which has historically been a State responsibility. Reliance on voluntary cooperation could also reduce the need for the Secretary to establish criteria which are necessary for any system of Federal incentives or sanctions.

The variable sanction alternative has the advantage of being a realistic threat as compared to the empty threat of the present sanction. The sanction could be tailored to fit each situation. However, the fact that it would still be a Federal threat may do little to improve the State-Federal cooperative relationship. A variable sanction system also has the same disadvantage of the present sanction in being potentially counterproductive to safety if used. In addition, it would rely on the speed-monitoring data which are (1) time consuming to develop and review, and (2) not currently reliable. Federal criteria would be needed before this alternative could be implemented.

The alternative of Federal incentives would, in our opinion, improve the cooperative State-Federal relationship. It would also provide funds to the States who could (depending on the requirements of law) use the funds to improve traffic enforcement, expand other State programs, or reduce State taxes and/or debt. This alternative has the disadvantage of requiring additional Federal funds which means reductions in other Federal programs or increases in Federal taxes and/or debt. This alternative, like the penalty alternative, would rely on speed-monitoring data and would, in our opinion, require Federal criteria.

RECOMMENDATIONS TO THE SECRETARY OF TRANSPORTATION

We recommend that the Secretary of Transportation establish criteria to evaluate if speed reduction efforts taken by the individual States are sufficient or report to the Congress if such criteria cannot be established without intruding on State prerogatives. We also recommend that the Secretary institute a widespread, positive public information program emphasizing the continuing need in terms of energy conservation and safety for a national speed limit. This program should be a cooperative effort with the individual States.

AGENCY COMMENTS

The Secretary of Transportation generally concurs with the findings and recommendations of this report. (See app. III.)

The Secretary stated DOT has attempted to define enforcement through the establishment of enforcement criteria but found this to be a difficult, if not impossible, task. The Secretary believes that additional congressional guidance is needed to define enforcement. In the absence of congressional action, DOT believes it is virtually powerless to fulfill the congressional mandate to achieve compliance with the 55 mph speed limit.

The Secretary plans to expand DOT's public information efforts to foster voluntary driver compliance. These efforts are to include involvement of State and local governments and other groups.

The Administrator of the Federal Energy Administration concurs with our recommendation that criteria should be developed to evaluate State enforcement efforts. (See app. IV.) The Administrator also endorses our recommendation for a public information program, as such a program is crucial to achieving voluntary compliance with the 55 mph speed limit law.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress enact legislation to enable the Secretary of Transportation to implement a program of variable incentives or sanctions that provide each State with maximum flexibility in reducing driver speeds. The Congress may wish to relate these incentives or sanctions to highway safety grants, law enforcement grants, or the apportionment formula for highway trust funds. This approach would replace those provisions of existing law that prohibit the Secretary from approving Federal-aid highway construction projects in any State that either has a maximum speed limit in excess of 55 mph or fails to annually certify that the speed limit is being enforced.

Factors evaluated in a variable incentive or sanction program might include the State's established maximum speed limits, enforcement practices, public information programs, penalties imposed on speeders, and the extent to which the public travels at 55 mph. In our opinion, this type program would encourage greater acceptance and assistance by the States in reducing speeds.

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OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

ASSISTANT SECRETARY
FOR ADMINISTRATION

July 28, 1976

Mr. Henry Eschwege
Director
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Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in reply to your letter of June 7, 1976, to Secretary Coleman concerning this Department's authority to question a State's certification pursuant to 23 U.S.C. 141 that it is enforcing the 55 mph national maximum speed limit. You note that in the development of the Federal-Aid Highway Amendments of 1974, the Senate version of section 141 had been limited to certification of vehicle weight and size limitations and had provided that such certifications be "satisfactory" to the Secretary. In light of the omission of "satisfactory" from the conference bill in which the speed limit certification was combined with the weights and sizes certification, you have asked for our views on the authority conferred on the Department by 23 U.S.C. 141.

Before issuing the regulations at 23 C.F.R. Part 658, which reflect our conclusion that the Department has the authority to question and reject a State's certification, we examined the intent of Congress in enacting 23 U.S.C. 141. It is the view of our General Counsel that a narrow interpretation of the section, under which the Department could not question a certification, would give considerably less force to the apparent Congressional intent regarding the speed limit than the interpretation reflected in Part 658.

The narrow construction of section 141 would place primary reliance upon the conference committee's failure to adopt the words "satisfactory to him" that appeared in the certification of the Senate bill. Such a construction would make two important assumptions about these words. First, it would assume that the presence of these words added substantially to the scope of the authority of the Secretary under the Senate certification provision. Second, it would assume that the nonadoption of the words was

in fact a "rejection" of the words for substantive reasons. We agree that both of these assumptions are plausible. We believe, however, that nothing in the statute or its history compels their adoption. Indeed, considering the legislative purpose underlying section 141, discussed below, we do not feel constrained to adopt either assumption.

With respect to the first assumption, we believe that it is equally plausible that the conferees may have simply determined that the words "satisfactory to him" were superfluous. In our experience, the deletion by conferees of superfluous language is not an uncommon event. Such sections are regarded as technical and are rarely explained in conference reports. This may be the reason why the deletion of "satisfactory to him" is not discussed anywhere in the legislative history. Section 141 does not expressly provide the Department with authority to question a certification or to require substantiation of a certification. The explanation for this may be that the conferees and their staff were aware of the operation of other certification provisions and deemed the idea that the certification be acceptable to the administering agency so fundamental and understood that the words "satisfactory to him" were superfluous.

One purpose of a certification is to provide the receiver with assurance that particular facts exist, e.g., compliance with a standard (15 U.S.C. 1403), or the development of a proper technical services program (15 U.S.C. 1355). One statute (15 U.S.C. 1355) expressly provides the administering agency with authority to obtain information to verify the accuracy of a certification prior to granting program approval, while another (15 U.S.C. 1403) authorizes the agency to obtain the information relied upon by the certifier in making his certification and/or to conduct subsequent investigations and to seek sanctions against persons who falsely or incorrectly certified. In all of these instances, it is the certifier, not the recipient of the certification, who is bound by the certification. To the extent that section 141 is interpreted as binding the Secretary and foreclosing his inquiry, that certification is unlike the other certification provisions we have found. This possibility is strengthened by the conferees' certain knowledge of 23 U.S.C. 315 which authorizes the Secretary to make all needful rules and regulations. The conferees could have reasonably decided that section 315 authorized the Secretary, as a part of the certification process, to obtain the information necessary to determine that the States are actually enforcing the national speed limit.

If "satisfactory to him" was deleted because the conferees regarded it as conferring additional and undesirable authority upon the Secretary, the failure to explain the deletion to ensure that the Secretary is not deemed to have such authority is truly remarkable. Surely, if the effect of the conferees' action were to reject a strong enforcement scheme in favor of a window-dressing enforcement scheme, such momentous action would have occasioned some comment to that effect at some point in the conference report of consideration thereof by the two houses. Yet, we are unable to find any such comment.

It might be argued that the statements during the floor debates by several of the House conferees support the narrow interpretation of section 141 since the statements speak only of State certification. In initially summarizing the conference committee actions, Jim Wright, the floor manager, described section 141 as a provision that would require State certification of enforcement of the 55 mph speed limit. (120 Cong.Rec. H 12270(daily ed. Dec. 18, 1975)) James Cleveland spoke at one point in a similar vein. (120 Cong. Rec. H 12271 (daily ed. Dec. 18, 1975))

We do not believe that these statements furnish any support for the narrow interpretation. They appear to be no more than the usual statements made during floor consideration of any bill, i.e., mere paraphrases of the statutory language. They are not interpretive and are therefore not particularly relevant to the present inquiry.

Although we do not believe that the legislative history supports the narrow interpretation, we recognize that the enforcement of speed limits has been traditionally--and remains--a State responsibility. The certification requirement undoubtedly reflects Congressional appreciation for State primacy in the fulfillment of that responsibility. Certification represents a minimum degree of oversight and a maximum degree of trust; however, this does not compel the conclusion that a State certification must be blindly accepted by the Secretary when the information contained therein does not support the State's claim, nor is the Secretary precluded from requiring information as an integral part of the certification process.

While there are no statements that support the narrow interpretation, there are statements, in the conference report and by each of the five House conferees and by the Senate floor manager during floor debates, that do support the broad interpretation. The conference report characterizes the action of the conferees regarding the House and Senate certification provisions as simply involving the combination of the two provisions. (p. 20) There is no suggestion, in the report or elsewhere, that the conferees had chosen a weak provision over a strong one. There is not even any mention in the report or elsewhere of the dropping of the allegedly significant words "satisfactory to him." This contrasts sharply with the descriptions in the report of the conferees' action on other provisions in the House and Senate bills. In numerous instances, the descriptions expressly mention specific additions, deletions, and modifications. The absence of any mention of the deletion of the words regarding satisfactory certifications suggests that the conferees did not think that the nonadoption of such language was of any significance. If they had regarded the language in the same manner as the language is regarded under the narrow interpretation, the deletion would surely have been mentioned.

We would argue therefore that the conferees made no significant change in the scope of the certification provisions. As your letter suggests, the authority of the Secretary to question the certifications was clearly in the Senate version. The conferees may well have thought that it was implicit in the House version.

There are other statements by the House conferees that more directly support the broad interpretation of section 141. Representative Wright, who initially merely paraphrased section 141, subsequently spoke of the section as containing a requirement that the States "must apply . . . [the] speed limit in order to qualify for Federal funds." (120 Cong. Rec. H 12275, (daily ed. Dec. 18, 1975)) This statement clearly goes well beyond the narrow interpretation which argues that there is no requirement for State enforcement, but merely a requirement for State certification irrespective of the underlying facts. Mr. Wright suggests, contrary to the narrow interpretation, at least that the underlying facts must support a State's certification. This requirement creates the possibility of acceptable and unacceptable certifications. If the underlying facts do not support a certification, i.e., if a State is not applying the speed limit, then that State's certification is unacceptable and its Federal-aid highway funds must be terminated. If the Secretary is to be able to distinguish between acceptable and unacceptable certifications, he must have knowledge of the underlying facts. Clearly, a regulation that requires substantiation as a part of a State's certification is, in the parlance of 23 U.S.C. 315, needful.

Indeed, Wright's statement further suggests that the Secretary may not only ensure the accuracy of certifications, but he may also make the sufficiency of the State enforcement efforts a consideration in his accepting certifications. Only in this manner can a State actually be required, as Wright states, to enforce the 55 mph speed limit.

Like the floor manager, conferee Cleveland went beyond his paraphrasing of section 141. He characterized the section as "putting teeth in" the 55 mph speed limit program. (120 Cong. Rec. H 12271 (daily ed. Dec. 18, 1975)) Since section 141 is toothless under the narrow interpretation, it appears that Harsha did not view section 141 narrowly. See also the statement of conferee John Klucynski that enforcement of the speed limit is to be emphasized henceforth. (120 Cong. Rec. H 12272 (daily ed. Dec. 18, 1975)) Harsha went on to say that, under section 141, the "States will confront the real prospect of finding themselves deprived of project approvals if unable to certify compliance."

The statements of the remaining two conferees also support our view that section 141 requires more than simply an unsubstantiated statement that the law is being enforced. Harold Johnson stated that "the speed limit must be adequately enforced; and the conference report requires that it be enforced." (120 Cong. Rec. H 12274 (daily ed. Dec. 18, 1975)) The statements of William Harsha, the ranking Republican conferee, are strongest of all. The statements occur in a colloquy with the floor manager. Mr. Wright asked Mr. Harsha,

Is it not true that for the first
time-for the first time-in this
legislation, we have said to the

States that they must enforce their extant weight requirements and restrictions in order to qualify for Federal aid? (120 Cong. Rec. H 12273 (daily ed. Dec. 18, 1975))

Mr. Harsha responded,

There is not any question about the truth of what the gentleman says. In other words, if they do not strictly enforce their rules as to speed and as to maximum weight limitations, they would get no Federal aid for their highways. (Emphasis added.) (120 Cong. Rec. H 12273 (daily ed. Dec. 18, 1975))

It bears noting at this point that these expansive statements were made by the House conferees, the conferees who are supposed, under the narrow interpretation, to have engineered the nonadoption of "satisfactory to him" in order to limit the reach of the certification provision.

It may be argued that the foregoing discussion does not resolve the question of the extent of the Secretary's authority under section 141, but serves only to establish that the conferees' action was genuinely ambiguous. In that event, it is useful and in accordance with recognized practices of statutory interpretation (Sutherland, pp. 54-55, vol. 2A) in cases of unresolved ambiguity to determine the legislative purpose underlying the provision in question and to consider how that purpose is served by the various reasonable interpretations of that provision.

Sutherland provides,

A statute is to be construed with reference to its manifest object, and if the language is susceptible of two constructions, one which will carry out and the other defeat such manifest object, it should receive the former construction. (p. 57, vol. 2A)

Such object, must, of course, be clear and manifest. We believe that, on a broad level at least, the object of sections 141 and 154 is clear and manifest. Section 154 alone, which requires each State to have a 55 mph speed limit, clearly implies that the Congress intends that each State shall have and enforce such a speed limit. Section 154's complementary

section, section 141, together with the statements of the House conferees, leaves no room for doubt that the Congress intended that the speed limit be enforced. See also the statement of the Senate floor manager that "[s]trong State enforcement language has been agreed to by both Senate and House conferees." (120 Cong. Rec. S 21948 (daily ed. Dec. 18, 1975)) It seems almost as clear that the Congress gave the Secretary the responsibility for ensuring not only certification, but the validity of that certification as well. It need not be established further that it was the express objective of Congress that the States be required to substantiate their certifications. In view of section 315, it is sufficient simply to show that Congress intended section 141 to ensure State enforcement of the speed limit. The intent that the speed limit be enforced and the expectation that section 141 would secure such enforcement is sufficiently clear and manifest, in our judgment, to warrant applying the above canon regarding frustrating the will of Congress. Under the narrow interpretation, the Department is virtually helpless to ensure compliance with the speed limit, even if it is clear on the face of the certification that enforcement, in fact, is absent. As an interpretation that defeats the objective of Congress regarding the speed limit, the narrow interpretation must give way to the broad interpretation since it would enable the Department to carry out the will of Congress.

The application of another common canon, that relating to interpretations producing absurd results, leads to the same conclusion, that the narrow interpretation of section 141 should be rejected. As stated in Sutherland, the rule is that

. . . if the literal import of the text of an act is not consistent with the legislative meaning or intent, or such interpretation leads to absurd results, the words of the statute will be modified by the intention of the legislature. (p. 65, Vol. 2A)

Because the statute charges the Secretary with ensuring that the States validly certify that the speed limit is enforced, the Secretary cannot be simply a mere unquestioning receptacle for self-serving State certifications. A State could properly certify its enforcement although it has assigned only a single patrolman to patrol one highway in the State. Worse still, there would be no bar to completely false certifications. A State that assigned no patrolmen to enforcement duties could certify enforcement even though such certification would be a fraud upon the Department and make a mockery of the speed limit and a shambles of the underlying energy conservation and safety goals.

The remedy chosen by the Congress is also supportive of our view. Congress chose the only provision of Title 23 which permits immediate cessation of funding, the only provision which can be used quickly to bring a State back into compliance if it should fall out of compliance. If all that the Congress cared about was a mere annual certification, then it could have tied it to the annual apportionment of funds under 23 U.S.C. 104. If however, it cared about actual enforcement, which is a continuing process,

it would tie it to section 106, which is also a continuing process, one of approval and funding. Consider the hypothetical of a State which formally certifies that it is enforcing, then one month later announces that it considers 55 mph a foolish limitation and will not issue any citations for its violation. The remedy chosen by the Congress is the only provision in Title 23 which can be used in this situation to bring the State back into compliance. Either the State resumes enforcement or its funding stops. A continuing responsibility is enforced by a continuing remedy.

Sincerely,


William S. Heffelfinger



OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

ASSISTANT SECRETARY
FOR ADMINISTRATION

December 23, 1976

Mr. Henry Eschwege
Director
Community and Economic Development Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your letter of October 26, 1976, requesting comments from the Department of Transportation on the General Accounting Office draft report entitled, "Speed Limit 55--Is It Achievable?" We have reviewed the report in detail and prepared a Department of Transportation reply.

Two copies of the reply are enclosed.

Sincerely,


William S. Heffelfinger

Enclosures (2)

THE DEPARTMENT OF TRANSPORTATION POSITION STATEMENT

We have reviewed the General Accounting Office's draft report on the 55 mile per hour national maximum speed limit. We are in basic agreement with the findings and recommendations of the report, and would like to compliment the General Accounting Office on its analysis and presentation of the complexity of issues involved. In general, the report provides a useful and constructive analysis of the Department of Transportation's 55 mile per hour program.

The report recommends that the Department take two steps to improve its 55 mph program: (1) establish criteria for evaluating the sufficiency of State enforcement efforts; and (2) institute a widespread, positive public relations campaign to emphasize the continuing need for a national speed limit.

With respect to the first recommendation, the development of enforcement standards has been an area of continuing concern for DOT. The Department has explored in depth the feasibility of defining the term "enforcement" through the establishment of enforcement criteria. This has proved to be a difficult if not impossible task. In the first place, many indicators of enforcement cannot be quantified. In addition, mandated enforcement techniques would in many cases reduce needed State flexibility in the selection of enforcement methods which are appropriate to local circumstances. Finally, the statute itself (23 U.S.C. 141) provides neither direct authority or guidance for the establishment of enforcement criteria. The Department of Transportation will continue to examine the feasibility of Federally established enforcement criteria.

We concur in the second recommendation, that the Department institute a widespread public relations program to foster voluntary compliance. Steps are now being taken to significantly expand the Department's 55 mph public support program. This expanded effort will include (a) a comprehensive,

long-term national advertising campaign designed to alter driver attitudes concerning the 55 mph speed limit; (b) systematic technical assistance to the States in developing their individual public information and enforcement programs; and (c) development of support within the judiciary, State legislatures, local units of Government, and key highway user groups and citizen organizations. In addition, General Benjamin O. Davis, Jr. will continue to represent the Secretary in meeting with key Government officials and private organizations to develop support for the 55 mph speed limit.

In addition to recommendations for DOT action, the draft report also recommends that Congress consider deleting the sanction as presently written in favor of positive incentives or variable penalties tied to criteria established by the Secretary of Transportation. Apart from the question of criteria, discussed above, we endorse the concept of positive incentives and variable penalties. Such a system will provide the Secretary with increased flexibility in reviewing State certifications and in influencing State enforcement efforts.


Finally, there are a few points which require amplification in order to achieve greater clarity. Our suggestions and comments are listed below by reference to the existing language in the report.

[See GAO note 1.]

[See GAO note 1.]

[See GAO note 2.]

Page 46, "Mr. Harsha responded" - Based on this and other language from the deliberations, it seems logical to suggest that the Congress define "enforcement," "strictly enforce," and similar terms used. In the absence of Congressional action to correct the statute, the DOT is virtually powerless to fulfill the Congressional mandate to achieve compliance with the 55 mph national maximum speed limit.


for John W. Snow
Administrator

- GAO notes:
1. Material deleted related to matters which were revised in final report.
 2. Page reference refers to our draft. The corresponding page in this final report is page 38.



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

DEC 23 1976

OFFICE OF THE ASSISTANT ADMINISTRATOR

Mr. Monte Canfield, Jr.
Director
Energy and Minerals Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Canfield:

Thank you for your letter of November 4, 1976, to Mr. Zarb offering the Federal Energy Administration (FEA) the opportunity to comment on the General Accounting Office's draft report to Congress on the 55 MPH speed limit.

Overall, we are pleased with the content and caliber of the report. Such a study has long been needed, and the draft evidences it was done thoroughly and well. The following paragraphs present our specific comments.

First, we wish to add our endorsement to your recommendation that a positive, widespread public education campaign be conducted. Such a program is crucial to achieving voluntary compliance with the 55 MPH speed limit. The lack of such a campaign has given rise to the erroneous assumption that the Federal Government does not adequately value the benefits which are being realized from the 55 MPH speed limit.

The conclusions concerning alternatives to the current sanction of withholding a State's Federal highway funding (pages 39-40) need to be expanded. The study makes an interesting argument that weakening the penalty for non-enforcement of the speed limit will actually strengthen the law by placing the law's sanction within the realm of possibility. Each of the three alternatives should be developed with a discussion of its potential variations, as well as its pros and cons.

The recommendation to consider establishing a schedule of criteria on which to judge the quality of a State's enforcement is well taken and should be investigated further.

The energy savings figures quoted on page 5 are undocumented. We would prefer that the second sentence on that page be changed to read, "The Federal Energy Administration estimated the fuel savings would be between 100,000-200,000 barrels of oil per day."

We are unfamiliar with several of the reports quoted in the Fuel Savings Section beginning on page 9. We would urge you to include some discussion as to how the various estimates were arrived at as well as complete references, since a demand for the studies mentioned is to be anticipated.

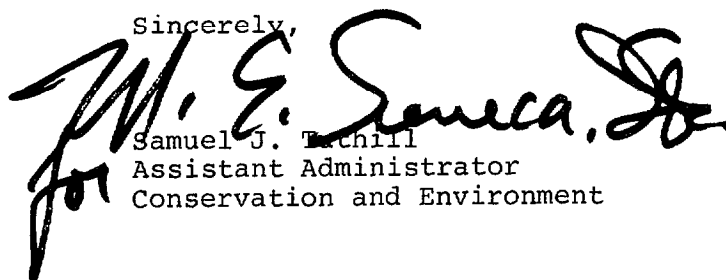
The conclusions on the impact of the 55 MPH speed limit on fuel consumption should point out that the 55 MPH speed limit is among the three largest transportation energy conservation measures we have, along with improving automotive fuel economy and increasing auto occupancy levels. Its importance in this area should not be understated, particularly since transportation consumes over half of this country's petroleum. Also in the fuel savings conclusions, the first sentence should read, "Since the establishment of the national 55 MPH speed limit, average highway speeds...."

Finally, two editorial notes:

1. The report's rambling writing style, especially in the final section, gives the reader an impression of redundancy; and,
2. It would be very desirable for the report to footnote its source materials.

Thank you again for the opportunity to contribute to this worthwhile study. I hope our comments are helpful and I look forward to receiving copies of the final report.

Sincerely,



for Samuel J. Tschill
Assistant Administrator
Conservation and Environment

PRINCIPAL OFFICIALSRESPONSIBLE FOR ADMINISTERINGACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<u>DEPARTMENT OF TRANSPORTATION</u>		
SECRETARY OF TRANSPORTATION:		
William Coleman	Mar. 1975	Present
John W. Barnum (acting)	Feb. 1975	Mar. 1975
Claude S. Brinegar	Feb. 1973	Feb. 1975
John A. Volpe	Jan. 1969	Feb. 1973
Alan S. Boyd	Jan. 1967	Jan. 1969
ADMINISTRATOR, FEDERAL HIGHWAY		
ADMINISTRATION:		
Norbert T. Tiemann	May 1973	Present
Ralph R. Bartelsmeyer (acting)	July 1972	May 1973
Francis C. Turner	Feb. 1969	June 1972
Lowell K. Bridwell	Apr. 1967	Jan. 1969
ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC		
SAFETY ADMINISTRATION (note a):		
John W. Snow	July 1976	Present
James B. Gregory	Aug. 1973	July 1976
Vacant	Apr. 1973	Aug. 1973
Douglas W. Toms	Jan. 1970	Mar. 1973
Robert Brenner (acting)	Feb. 1969	Jan. 1970
William Haddon	Apr. 1967	Feb. 1969

a/The predecessor agency, National Highway Safety Bureau, was part of the Federal Highway Administration before March 1970, and the title of Director changed to Administrator in July 1971.