U.S. Department
of Transportation
**Federal Highway
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

May 16, 2002

Refer to: HOTO-1

Mr. Jeffrey E. Boly
2879 Southwest Champlain Drive
Portland, OR 97201-1833

Dear Mr. Boly:

Thank you for your e-mail of March 22 concerning our February 11 response to Mr. Chad Dornsife. For recordkeeping purposes, we have entitled this as a Request for Interpretation 2-494(I)–"Setting Speed Limits."

Information regarding speed limit signs may be found in the Millennium Edition of the Manual on Uniform Traffic Control Devices (MUTCD) in Section 2B.11 Speed Limit Sign (R2-1) which is also available on the Federal Highway Administration (FHWA) web site: **http://mutcd.fhwa.dot.gov**.

In general, the maximum speed limits applicable to rural and urban roads are established:

1. statutorily-based on the maximum speed limit set by State and local government laws and ordinances, or

2. as altered speed zones-based on engineering speed studies. With the elimination of the national speed limit (55 mph), local laws and ordinances now govern the establishment of both statutory and altered speed zones. Often, these laws restrict the maximum speed limit that can be established in a particular road, notwithstanding what an engineering study may reveal.

In your e-mail, you quoted a portion of the Section 2B.11, but not the entire section or other pertinent provisions of the MUTCD. The 2nd paragraph of the first Guidance statement of Section 2B.11 states "When a speed limit is to be posted, it should be the 85th-percentile speed of free-flowing traffic, rounded up to the nearest 10 km/h (5 mph) increment. This statement is not a "standard;" rather it is guidance and is so identified in the MUTCD. In the Introduction of the MUTCD, "should" is guidance, which is defined as "a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate." The FHWA encourages speed studies as the basis for speed limits for altered speed zones, but the MUTCD does not require a speed study to establish a speed limit. While we respect your opinion to disagree with our interpretation, we confirm our previous position as further explained below.

You assert that only after the engineering study has been made can other factors be considered; this is not the case. Other factors, several of which are listed under "Options" in Section 2B.11, may also be considered within the engineering study establishing a speed limit. The other factors such as road characteristics, pace speed, roadside development and environment, parking practices and pedestrian activity, and crash experience may be used and are typically included in established traffic engineering practices to determine a speed limit. These engineering practices as they apply to establishing altered speed limits are typically identified in the legislation by States establishing speed limits.

There is a tremendous diversity in the conditions that exist on the Nation's roads and in the applicable local laws and ordinances. The FHWA must provide each jurisdiction the latitude to establish speed limits appropriate to roads under their control using their policies consistent with the MUTCD. Therefore, FHWA has determined it is permissible that a highway agency may assign a speed limit based on the maximum speed limit mandated by local law or ordinance.

Additional relevant information for the establishment of speed limits and the use of the 85th-percentile speed may be found in:

1. December 2000 Restoring Credibility to Speed Setting: Engineering, Enforcement, & Education Issues, a joint report by the National Highway Traffic Safety Administration and FHWA of the January 2000 Speed Management Workshops.

2. Transportation Research Board, Special Report 254, Managing Speed: Review of Current Practice for Setting and Enforcing Speed Limits, 1998. The Engineering Study Method is discussed in detail in this report: one of the findings in this report was the 85th percentile speed as the most widely used factor for determining the level at which to set the limit.

3. Traffic Engineering Handbook, 5th Edition, Institute of Transportation Engineers, 1999, "Speed Zoning Procedures."

4. Nebraska Department of Road Research Project Number SPR-PL-1(36) P519, Relationship Between Design, Operating, and Posted Speeds Under High-Posted Speed Conditions. Department of Civil Engineering, University of Nebraska-Lincoln, June 2000.

We strongly disagree with your assertion that few, if any, jurisdictions actually make speed studies. That has not been our experience in working with State and local highway agencies. States and most local jurisdictions perform numerous speed studies.

If you have further questions, you may contact Mr. Fred Ranck of the FHWA MUTCD team at 708-283-3545 or Mr. Raymond W. Cuprill of the FHWA Office of Chief Counsel at 202-366-1377.

Sincerely yours,

Shelley J. Row, P.E.
Director, Office of Transportation Operations

FHWA:HOTO-1:EHuckaby:69064:5-3-02
Revised:EHuckaby:5-6-02
cc: HOTO-1 HOST-1 HOTO-1(EHuckaby)
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Mr. Raymond Cuprill, FHWA HCC Mr. Fred Ranck, FHWA MRC
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