



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Mr. John Fowler  
General Counsel  
U.S. Department of  
Transportation  
400 7th Street, S.W.  
Washington, D.C. 20590

Dear John:

On September 21, 1981, the Department of Transportation submitted for OMB review an NPRM and draft final rule entitled "Performance Standards for Speed Measuring Radar Devices." The NPRM was submitted under Section 3(c)(3) of the Order.

My office has carefully reviewed the draft rule and has consulted with the staff of the National Highway Traffic Safety Administration. We have concluded that the draft rule is inconsistent with the principles set forth in Section 2 of the Executive Order, and are therefore returning it to you for reconsideration. While we appreciate the need for effective enforcement of local speed laws, it is unclear why enforcement should depend on the Federal government's establishing a standard for speed measuring radar devices or NHTSA's establishing a rigid list of products that may be purchased with Federal funds. Little attention seems to have been devoted to the potential of voluntary product standardization or self-certification for dealing with whatever problems may exist in establishing the reliability of speed measuring devices; this approach has long been used in the United States to establish quality standards for complex products, including those of importance to state and municipal governments. The proposed list of devices qualifying for purchase by local officials seems particularly problematic, and it runs strongly counter to the Administration's policy of encouraging decentralization and a maximum amount of discretion in local government officials. At the least, we believe thorough consideration should be given to the potential effects of a qualified products list to limit competition and stifle innovation in the manufacture and use of speed measuring radar devices.

I realize that clarifying Federal policy in this area is a matter of urgent concern to both manufacturers of radar devices and local law-enforcement officials. At the same time, we must be sure that our desire to remove the present uncertainty among sellers and buyers of these devices does not lead us to adopt a monolithic national program that might have even less desirable consequences in the longer run. I can assure you of a prompt further review by OMB just as soon as your reconsideration of this proposal is complete.

Yours truly,

Christopher DeMuth  
Administrator for Information  
and Regulatory Affairs