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August 12, 1993

FHWA Docket No. MC-92-4
Room 4232, HCC-10
Office of Chief Counsel
Federal Highway Administration
400 Seventh Street, SW
Washington, DC 20590-0001

FHWA-97-2180-11

RECEIVED

Re: Federal Motor Carrier Safety Regulations;
FHWA Docket No. MC-92-4

Dear Sir or Madam:

On behalf of **COSTHA**, the Conference on Safe Transportation of Hazardous Articles, Inc., I respectfully submit this comment on the notice of proposed rulemaking issued by the Federal Highway Administration (FHWA) in Docket No. MC-92-4. The notice proposes a safety permit program applicable to motor carriers transporting "designated high risk hazardous materials" in interstate or intrastate commerce.

As noted in the preamble to MC-92-4, Section 106 of the Hazardous Materials Transportation Act (HMTA), as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990, requires DOT to establish a safety permit program that applies, at a minimum, to motor carriers transporting (1) certain explosive materials, (2) liquefied natural gas, (3) materials which are extremely toxic by inhalation, and (4) highway route controlled quantity radioactive materials.

According to the notice, FHWA plans to limit the initial safety permit program to motor carriers hauling the specific classes of hazardous materials mandated by the HMTA amendment (the "designated high risk hazardous materials"). After the permit program is fully implemented, the agency will study the program to decide whether to propose expansion to include other hazardous materials. 58 Fed. Reg. 33421. **COSTHA** supports **FHWA's** decision to limit the proposed program to those materials specified by statute.

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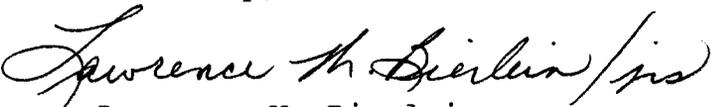
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COSTHA also believes that FHWA should not extend the safety permit program unless and until the agency gathers substantial evidence showing that such extension would significantly enhance transportation safety. We are skeptical that such an extension will be necessary or beneficial, but instead urge the focus of agency resources on motor carrier safety ratings and enforcement of existing regulatory requirements. Despite the anticipated use of existing FHWA programs, forms, and procedures, compliance with the proposed programs would impose additional administrative burdens on affected motor carriers and on FHWA. In recognition of these burdens, the Department of Transportation stated, "[w]e believe that it is essential to begin with a limited permitting program that is administratively practicable, and then consider expanding the program as determined necessary." [Emphasis added.] See, H.R. Rep. No. 444, 101st Cong., 2d Sess. 66-67 (1990). In **light** of the associated administrative burdens, the list of designated high risk hazardous materials should not be expanded in the absence of safety data indicating a clear need for a broader permit program.

With respect to Hazard Zone B PIH materials, **COSTHA** concurs with **FHWA's** decision not to include such materials on the list of designated high risk hazardous materials. Hazard Zone B includes many widely distributed chemicals that, because of the quantities typically shipped, generally are transported without incident. **COSTHA** believes that Hazard Zone B materials do not present a transportation hazard of a magnitude warranting inclusion in the safety permit program.

If you have any questions concerning **COSTHA's** comments, please contact my offices.

Sincerely,



Lawrence W. Bierlein
Counsel for **COSTHA**