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August 13, 1993

REC'D/ALBOS. DIV.
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Office of the Chief Counsel
Federal Highway Administration, DOT
Room 4232, HCC-10
400 Seventh St., SW
Washington, DC 20590

RE: FHWA Docket No. MC 92-4

Dear Sir/Madam:

FHWA-97-2180-25

The National Propane Gas Association (NPGA) is pleased to submit its comments on MC 92-4, a NPRM to require safety permits for the transportation of certain hazardous materials.

NPGA is the national trade association of the propane gas industry representing over 3,000 propane retail marketers, propane producers, transporters, equipment manufacturers and distributors in all 50 states. There are over 8,000 retail propane companies operating 13,500 outlets in the country. The industry operates over 85,000 delivery and service vehicles of which about 6,000 are transport trucks. Our industry is directly affected by many of regulations that are being issued as a result of the Hazardous Materials Transportation Uniform Safety Act of 1990.

We believe that this proposal, as drafted, accurately reflects the intent of Congress to limit Federal safety permitting to a narrowly defined group of materials. Propane, also known as liquefied petroleum gas or LP-gas, was not included in the statute as a product to be regulated through a permit. This decision by Congress reflects the historical safety of the propane gas transportation system under the existing comprehensive DOT regulatory system.

As you will recall, the 1990 HMTUSA law reflected years of work involving many affected interests. When the idea of a Federal permit was first proposed a number of hazardous materials were considered for inclusion. While a detailed review of the legislative history would be too long for this comment, such a review would show that there was no intention to include propane (LP-gas) in this legislation. Congress had the option to include a number of materials and after substantial fact finding developed the list found in the statute.

It is unreasonable to consider using a broad brush approach that would include a vast number of materials in the permitting regulations. Some have suggested that all Division 2.1 hazardous materials be included in this regulation. There is no legislative history or actual **experience** to suggest that this method would enhance public safety.

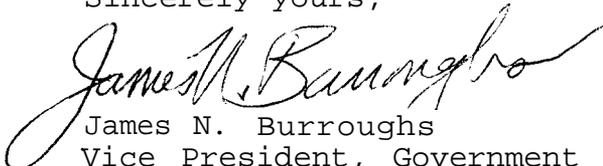
The legislation and the NPRM refer to liquefied natural gas which is an easily identifiable product which is listed in the RSPA regulations hazardous materials table as Natural gas, refrigerated liquid (UN1972). Attempting to blur this clear designation by including other liquefied compressed gases would do great harm to the plain meaning of the statute. This could involve so many regulated parties as to become an administrative nightmare for the FHWA and the affected public.

The careful approach of Congress in listing just a few specific materials in the legislation should serve as a guide to DOT in using its discretionary authority. If FHWA were to extend jurisdiction over any materials not listed in the legislation, it should take a case by case approach. The category of high risk hazardous materials must be used only when an appropriate determination has been made regarding the material.

There are no standards in HMTUSA or in the NPRM for determining how additional materials could be listed or **delisted** as a "designated high risk hazardous material"; therefore classification standards should be determined before accepting any recommendation to expand the statutory list.

NPGA would be pleased to answer any questions that the FHWA might have regarding this proposal or propane transportation in general.

Sincerely yours,



James N. Burroughs
Vice President, Government
Relations and General Counsel

JNB:sb