U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Ave., S.E.
Washington, D.C. 20590

Office of
Chief Counsel

MAY 10 2011

Mr. Ronald D. Breau, CDS
Vice President
Missouri Trucking Association
102 East High Street
P.O. Box 1247
Jefferson City, MO 65102

Dear Mr. Breau:

The Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA) has asked me to respond to your April 26, 2011 letter in which you state that the Missouri Propane Gas Commission has "proposed a rule that would require proper training for any persons in the business of transporting LPG to register."

The Hazardous Materials Regulations, 49 C.F.R. parts 171-180, prescribe "minimum training requirements" for "hazmat employees," *i.e.*, persons who in the course of their employment directly affect hazardous materials transportation safety. "For motor vehicle drivers, however, a State may impose more stringent training requirements only if those requirements—(a) Do not conflict with the training requirements in [the HMR]; and (b) Apply only to drivers domiciled in that State." 49 C.F.R. § 172.701.

As you note, the Research and Special Programs Administration (RSPA, the predecessor agency to PHMSA) has previously considered State requirements applicable to motor vehicle drivers who transport propane. In several preemption determinations (PDs), RSPA found that a State may not apply more stringent training requirements to motor vehicle drivers who are not domiciled within that State. PD-7(R) (Maryland), 59 Fed. Reg. 28913 (June 3, 1994); PD-13(R) (Nassau County, NY), 63 Fed. Reg. 45283 (Aug. 25, 1998), decision on petition for reconsideration, 65 Fed. Reg. 60238 (Oct. 10. 2000); PD-22(R) (New Mexico), 67 Fed. Reg. 59396 (Sept. 20, 2002), decision on petition for reconsideration, 68 Fed. Reg. 55080 (Sept. 22, 2003).

If a hazmat employee training requirement applicable to drivers of motor vehicles transporting propane is adopted by the Missouri Propane Gas Commission, you may apply to PHMSA's

Chief Counsel in accordance with 49 C.F.R. §§ 107.201 *et seq.* for a determination whether that training requirement is preempted by Federal hazardous material transportation law, 49 U.S.C. § 5101 *et seq.* However, PHMSA does not issue preemption determinations with respect to a proposed State requirement that has not yet been adopted.

I hope this information is helpful. If you have further questions, please feel free to contact Frazer C. Hilder of my office at 202-366-4400, by fax to 202-366-7041, or by email to mike.hilder@dot.gov.

Sincerely,

Joseph Solomey

Joseph Solomey
Assistant Chief Counsel for
Hazardous Materials Safety Law

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Mr. Ronald D. Breau, CDS
Vice President
Missouri Trucking Association
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Jefferson City, MO 65102

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