C. Agenda

i. Opening remarks
ii. NHTSA Presentation—NCAP braking program
iii. Presentations by organizations and the public
iv. Open discussion

Issued on: July 12, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–17801 Filed 7–16–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration, Federal Motor Carrier Safety Administration

[Docket No. RSPA–00–7021 (PD–23(RF))]

Morrisville, PA Requirements for Transportation of ''Dangerous Waste''

AGENCY: Research and Special Programs Administration (RSPA) and Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of administrative determination of preemption.

APPLICANT: Med/Waste, Inc. and Sanford Motors, Inc.

LOCAL LAWS AFFECTED: Morrisville, Pennsylvania Ordinance No. 902.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: Federal hazardous material transportation law preempts the following provisions in Ordinance No. 902 of the Borough of Morrisville, Pennsylvania:

1. The definitions of ''infectious waste,'' ''hospital waste,'' and ''dangerous waste'' in Section 01 and the use of the term ''dangerous waste'' throughout the ordinance.

2. The designation of Route 1 (between the Delaware River Toll Bridge and the boundary line with the Township of Falls) as the only street in the Borough that may be used by trucks transporting dangerous waste, in Section 02.

3. The requirement that each truck transporting dangerous waste carry and have available ''the manifest required for transportation of such waste under the Resource Conservation and Recovery Act, or federal or state regulations implementing that Act,'' in Section 05(a).

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration (Tel. No. 202–366–4400), or Joseph Solomey, Office of the Chief Counsel, Federal Motor Carrier Safety Administration (Tel. No. 202–366–1374), U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

A. Application for Preemption Determination

This proceeding is based on the December 30, 1999 application of Med/Waste, Inc. and its subsidiary, Sanford Motors, Inc. (collectively ''Med/Waste'') for a determination that Federal hazardous material transportation law preempts requirements contained in Ordinance No. 902 of the Borough of Morrisville, Pennsylvania (the Borough). The copy of Ordinance No. 902 attached to Med/Waste's application indicates that this ordinance was adopted on September 20, 1999, and it regulates ''the movement of infectious and chemotherapeutic wastes (hereinafter dangerous waste) by motor vehicle truck in the Borough of Morrisville.''

In its application, Med/Waste challenged (1) the definition and use of the term ''dangerous waste'' and the definitions of ''infectious waste'' and ''hospital waste''; (2) the limitation of trucks transporting dangerous waste within the Borough to Route 1; and (3) the requirement to carry the uniform manifest required for hazardous wastes. The text of Med/Waste's application and a March 1, 2000 letter from the Borough of Morrisville in response were published in the **Federal Register** on April 14, 2000, and interested parties were invited to submit comments. 65 FR 20258. Comments were submitted by Med/Waste, Sanitec, the Medical Waste Institute (the Institute), Biosystems, and American Waste Industries, Inc. (American). The Borough did not submit any further comments.

In comments submitted in response to the April 14, 2000 notice, Med/Waste stated that several of its drivers have received tickets for violating Ordinance No. 902, and it provided documents on citations issued on September 29 and October 8, 1999. On the summons, the fine is specified at $300, plus costs, for violations of Ordinance No. 902. Because the ''location'' is shown as Pennsylvania Avenue on each of the citations, where Med/Waste's facility is located, it is assumed that the citations were issued for departing from Route 1.[1]

In its comments, Med/Waste also stated that Ordinance No. 902 ''must be preempted in its entirety in order to preserve the integrity of the national, uniform scheme of hazardous material transportation.'' Med/Waste and others discussed additional provisions in Ordinance No. 902 concerning speed limits, accident reporting, time limits on storage of dangerous waste, and the posting of a $50,000,000 indemnity bond with the Borough Secretary. These additional requirements are discussed generally at the end of Part III, below. However, no determination is made whether Federal hazardous material transportation law preempts these additional requirements because Med/Waste's application did not specifically challenge or address them, and the April 14, 2000 notice in the **Federal Register** did not clearly indicate that RSPA and FMCSA would consider these other requirements or the ordinance as a whole.

B. Federal Regulation of Medical Waste Transportation

In a March 1993 notice in its rulemaking proceeding under docket No. HM–181G, RSPA discussed the Federal regulation of medical waste transportation. 58 FR 12207, 12208 (March 3, 1993). As explained there, DOT has listed and regulated ''etiologic agents'' as hazardous materials since 1972. In a 1991 final rule, RSPA accepted an industry proposal ''that medical waste should be treated differently than other infectious substances.'' *Id.* at 12209, referring to RSPA's final rule, 56 FR 66124 (Dec. 20, 1991). At that time, RSPA concluded that medical waste should remain regulated as a hazardous material:

> Since the majority of these wastes are untreated and, thus, may potentially contain infectious substances, RSPA strongly believes that the public and transport personnel [should] be protected from the hazards of these materials during transportation.

56 FR 66142. Accordingly, RSPA has provided ''less rigorous requirements'' for regulated medical wastes than for other infectious substances. 56 FR 66131.

In the March 1993 notice, RSPA also referred to a two-year demonstration program that the U.S. Environmental Protection Agency (EPA) had

[1] In a November 29, 2000 letter, Med/Waste asked RSPA for ''some indication of the estimated time of decision'' in this matter, because dates for court hearings on these citations (which had previously been continued) were coming due. This letter and a copy of RSPA's December 11, 2000 response have been placed in the docket.

established under the Medical Waste Tracking Act of 1988, but observed that ''EPA's regulations on medical waste in 40 CFR part 259 applied in only five States and had expired on June 22, 1991.'' 58 FR at 12209. RSPA explained that—

> To provide less rigorous requirements for medical waste containing infectious substances, RSPA turned to the expired EPA regulations as a model that could be adapted, with some modifications, to the HMR.

Id. at 12209–10.

Accordingly, RSPA acted consistently with the expired EPA regulations when it ''created a subcategory of infectious substances—infectious substances that are contained in or constitute medical waste.'' *Id.* at 12210. *See also* RSPA's final rules, 59 FR 48762 (Sept. 22, 1994), 59 FR 53116 (Oct. 21, 1994), and a further notice, 59 FR 65860 (Dec. 21, 1994), and final rule, 60 FR 48780 (Sept. 20, 1995), all in docket No. HM–181G. The Medical Waste Tracking Act of 1988 (Pub. L. 100–582, 102 Stat. 2950) and EPA's demonstration program for tracking and managing medical waste are also described in EPA's interim final rule establishing the two-year demonstration program, 54 FR 12326 (Mar. 24, 1989), and its final rule removing obsolete rules, 60 FR 33912 (June 29, 1995).

The HMR define and provide exceptions applicable to ''regulated medical waste'' in 49 CFR 173.134 (which also covers infectious substances and etiologic agents), and specific packaging requirements are set forth in § 173.196 (for infectious substances) and § 173.197 (for regulated medical waste).[2] Thus, regulated medical wastes must be distinguished from (and are not within the category of) ''hazardous wastes.'' In its March 24, 1989 final rule, 54 FR at 12330, EPA stated that it ''did not list infectious waste in the final rule'' listing hazardous wastes under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.* The HMR specifically state that ''A hazardous waste is not subject to regulation as a regulated medical waste.'' 49 CFR 173.134(b)(2).

[2] In a Notice of Proposed Rulemaking in Docket No. RSPA–98–3971 (HM–226), published in the **Federal Register** on January 22, 2001 (66 FR 6942), RSPA has proposed to adopt the ''risk groups'' developed by the World Health Organization; modify definitions of Division 6.2 materials (infectious substances), biological products, diagnostic specimens, and regulated medical waste; add additional definitions or cultures and stocks, sharps, and toxins; and include provisions on used health care products. However, these proposed changes would not change the overall scheme of designation and classification of infectious substances in the HMR.

In its regulations at 67 PA Code 403.4, the Pennsylvania Department of Transportation has adopted as State law those parts of the HMR in 49 CFR parts 171–173 and 178–180 and those parts of FMCSA's Federal Motor Carrier Safety Regulations in 49 CFR parts 388 and 397.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to Med/Waste's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

> (1) Complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
>
> (2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria that RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 section 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz,* 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.,* 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not ''substantively the same as'' a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

> (A) The designation, description, and classification of hazardous material.
>
> (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.
>
> (C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.
>
> (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.
>
> (E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be ''substantively the same,'' the non-Federal requirement must conform ''in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted.'' 49 CFR 107.202(d).

Subsection (c)(1) of 49 U.S.C. 5125 provides that, beginning two years after DOT prescribes regulations on standards to be applied by States and Indian tribes in establishing requirements on highway routing of hazardous materials,

> a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).[3]

[3] Section 5112(b)(1) provides that the highway routing standards shall include:

> (A) A requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;
>
> (B) Minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;
>
> (C) A requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of the State of tribe establishing the designation, limitation, or requirement and with affected industries;
>
> (D) A requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;
>
> (E) A requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—
>
> (i) The designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and
>
> (ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;
>
> (F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely manner;
>
> (G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;
>
> (H) a requirement that the State be responsible—
>
> (i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and

Continued

FMCSA's standards that a State or Indian tribe must follow in establishing highway routing requirements for nonradioactive materials are set forth in 49 CFR part 397, subpart C, and apply to any designations that are established or modified on or after November 14, 1994. 49 CFR 397.69(a).

The preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101–615 § 2, 104 Stat. 3244.

A Federal Court of Appeals has found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments that expanded the original preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, Congress revised, codified and enacted the HMTA ''without substantive change,'' at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.) To achieve safety through consistent Federal and State requirements, Congress has also authorized DOT to make grants to States ''for the development or implementation of programs for the enforcement of regulations, standards, and orders'' that are ''compatible'' with the highway-related portions of the HMR. 49 U.S.C. 31102(a). In this fiscal year, $155 million is available for grants to States under the Federal Motor Carrier Safety Assistance Program. *See* 49 CFR Parts 350 & 355 and the preamble to FMCSA's March 21, 2000 final rule, 65 FR 15092, 15095–96.

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. This administrative determination replaced RSPA's process for issuing advisory inconsistency rulings (IRs) under the ''dual compliance'' and ''obstacle'' criteria now explicitly set forth in section 5125(a).

The Secretary of Transportation has delegated to FMCSA the authority to make determinations of preemption that concern highway routing and to RSPA the authority to make such determinations concerning all other hazardous materials transportation issues. 49 CFR 1.53(b)(2), 1.73(d)(2). In this determination, FMCSA's Administrator has addressed the highway routing issues, and RSPA's Associate Administrator for Hazardous Materials Safety has addressed the non-highway routing issues. 49 CFR 107.209(a), 397.211(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination be published in the **Federal Register**. Following the receipt and consideration of written comments, RSPA and FMCSA publish their determination in the **Federal Register**. *See* 49 CFR 107.209(c), 397.211(d). A short period of time is allowed for filing petitions for reconsideration. 49 CFR 107.211, 397.223. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause, the Fifth Amendment or other provisions of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA and FMCSA are guided by the principles and policies set forth in Executive Order No. 13132, entitled ''Federalism'' (64 FR 43255 (August 10, 1999). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other clear evidence that Congress intended to preempt State law, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA and FMCSA have implemented through their regulations.

III. Discussion

A. Authority To Set ''More Stringent'' Requirements

In its March 1, 2000 letter (published as Appendix B to the April 14, 2000 **Federal Register** notice), the Borough argued that Federal environmental statutes set only ''minimum standards,'' and that ''local governments [may] enact more stringent regulations.'' It cited *City of Philadelphia* v. *New Jersey,* 437 U.S. 617 (1978), as support for the position that RCRA allows state, regional, and local authorities ''to control the collection and disposal of solid waste as one of their primary functions,'' and quoted from that case that there was ''no clear and manifest purpose of Congress to preempt the entire field of interstate waste management.'' 437 U.S. at 620. The Borough also cited *Ensco, Inc.* v. *Dumas,* 807 F.2d 743 (8th Cir. 1986), as holding that—

states and local municipalities are permitted to establish waste management standards more stringent than those imposed by federal law and that only local regulations which totally prohibit storage, transportation or treatment should be preempted.

The Borough's arguments fail for two reasons. First, as discussed in Section I.B., above, EPA's two-year demonstration program for tracking and managing medical wastes ended in 1991, and the types of wastes regulated by Ordinance No. 902 are not within the category of hazardous wastes regulated by EPA under RCRA. The ''more stringent'' language in 42 U.S.C. 6929

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enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that in [establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement], a State or Indian tribe shall consider—

(i) population density;

(ii) the types of highways;

(iii) the types and amounts of hazardous materials;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain consideration;

(viii) the continuity of routes;

(ix) alternate routes;

(x) the effects on commerce;

(xi) delays in transportation; and

(xii) other factors that the Secretary considers appropriate.

does not apply to ''dangerous waste'' and other categories of wastes covered by Ordinance No. 902.

Second, in enacting RCRA, Congress provided that EPA's regulations on the transportation of hazardous waste must be ''consistent with'' the HMR. 42 U.S.C. 6923(b). Also, a State program must be ''equivalent to'' and ''consistent with'' EPA's regulations in order to be approved by EPA. 42 U.S.C. 6926(b). RCRA and EPA's regulations do not authorize a State or locality to impose requirements on the transportation of hazardous waste that fail to satisfy the preemption criteria in 49 U.S.C. 5125, as discussed in more detail in PD–12(R), New York Department of Environmental Conservation Requirements on the Transfer and Storage of Hazardous Wastes, etc., 60 FR 62527, 62533–34 (Dec. 6, 1995), decision on petition for reconsideration, 62 FR 15970 (Apr. 3, 1997), petition for judicial review dismissed, *New York* v. *U.S. Dep't of Transportation,* 37 F. Supp. 2d 152, 158 (N.D.N.Y. 1999) (''EPA's authorization of a state RCRA program is not the equivalent of 'authoriz[ation] by another law of the United States.' '').

B. Designation, Description and Classification of Hazardous Material

Ordinance No. 902 added a new part entitled ''Dangerous Waste'' to the Borough's Motor Vehicles and Traffic Code. The term ''dangerous waste'' is defined in Section 01(f) as ''infectious wastes, or chemotherapeutic wastes, or hazardous wastes, or any combination thereof.'' In addition, ''all Hospital Waste will be presumed to be DANGEROUS WASTE,'' according to Section 07.

''Infectious waste'' is defined in Section 01(c) as ''waste that contains or may contain any disease-producing microorganism or material,'' including but not limited to 12 examples such as ''cultures and stocks of etiologic agents,'' ''waste blood and blood products,'' and ''[t]issues, organs, body parts, blood and body fluids that are removed during surgery and autopsy.'' The term ''hospital waste'' is defined in Section 01(g) as:

> waste of any sort generated by nursing homes, hospitals, clinics for the treatment of disease, or like institutions or businesses. The term shall also include paper products, bedding, towels, containers, or cleaning implements that have been exposed to infectious, chemotherapeutic, pathological wastes, solid wastes and/or hazardous wastes generated by nursing homes, hospitals, clinics for the treatment of disease, or like institutions or businesses.[4]

In its application, Med/Waste stated that the terms ''infectious waste,'' ''hospital waste,'' and ''dangerous waste'' conflict with the category of ''regulated medical waste'' in the HMR. Med/Waste also stated that the use of ''dangerous'' in the ordinance is not consistent with the HMR's category of materials that are ''Dangerous when wet.'' Both Sanitec and American commented that Ordinance No. 902 contains ''confusing and conflicting'' definitions that create confusion about the HMR and regulations of the State of Pennsylvania.

The Institute stated that the term ''dangerous waste'' differs substantively from the HMR by classifying as hazardous, and regulating, materials that are not covered in the HMR. As examples, the Institute referred to the definition of ''infectious waste'' in Section 01(c) as including (1) tissues, organs, body parts, blood and body fluids that are removed during surgery and autopsy (but which does not take into account the exception in 49 CFR 173.134(b)(1) for ceremonial interment or cremation), and (2) animal bedding and other wastes that have been ''in contact with'' laboratory research animals but may have not been used in ''diagnosis, treatment or immunization'' of animals as covered in the HMR's definition of ''regulated medical waste'' in 49 CFR 173.134(a)(4). The Institute also asserted that materials defined in the HMR as ''regulated medical waste'' are categorized or classified differently in Ordinance No. 902, because the Borough imposes on infectious waste ''the requirements for hazardous waste under RCRA,'' despite the fact that hazardous waste under RCRA ''does not include infectious substances.''

The Borough stated that the definitions in Ordinance No. 902 ''address essentially the same types of materials'' as the HMR. It compared the definition of ''infectious waste'' in the ordinance, including several of the examples, to wording in 49 CFR 173.134(a). However, the Borough did not address its definitions for ''dangerous waste'' and ''hospital waste'' or attempt to show that these terms are substantively the same as definitions and classifications of hazardous materials in the HMR.

The scheme in Ordinance No. 902 for describing and classifying ''dangerous waste'' differs markedly from that in the HMR. In the HMR, among the ''infectious substances'' in Division 6.2 are diagnostic specimens, biological agents, and regulated medical waste. 49 CFR 173.134(a). The Borough's comments attempt to explain that the examples listed in the definition of ''infectious waste'' in Ordinance No. 902 cover diagnostic specimens, biological agents, and regulated medical waste. However, these subcategories of infectious waste (and the manner in which they are regulated) overlap; they are not separated as they are in the HMR. Moreover, the language in Section 01(g) of Ordinance No. 902, ''waste of any sort generated by nursing homes, hospitals, clinics for the treatment of disease, or like institutions or businesses'' appears to include ordinary trash from administrative offices, which is not within the scope of an ''infectious substance'' regulated by the HMR. Thus, ''hospital waste'' in Ordinance No. 902 encompasses both (1) items that are within the definition of ''regulated medical waste'' in the HMR and (2) other items that may not contain any infectious substance and, therefore, are not regulated under the HMR.

The term ''dangerous waste'' in Ordinance No. 902 is also used in a manner that differs from the designation and classification scheme in the HMR. While the HMR do not define the word ''dangerous'' by itself or as modifying the word ''waste,'' in the overall context of the HMR, ''dangerous'' is a synonym for the word ''hazardous.'' The HMR use the term ''hazardous materials'' in the same manner as the term ''dangerous goods'' is used in international regulations. *See* the UN Recommendations on the Transport of Dangerous Goods, the Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the International Maritime Dangerous Goods Code, each of which deals with those materials regulated as ''hazardous'' under the HMR. In the same manner, when used in the HMR to describe materials that are ''dangerous when wet,'' the word ''dangerous'' means the same as ''hazardous.''

In Ordinance No. 902, however, the term ''dangerous waste'' does not correspond to the category of ''hazardous waste'' in the HMR. It appears to include (1) types of waste infectious materials that are regulated by DOT as infectious substances, rather than ''hazardous waste'' and (2) other types of waste that present no hazards at all, such as ''hospital waste.'' In this manner, the term ''dangerous waste'' in Ordinance No. 902 is not substantively the same as any definition, description or classification of hazardous material in the HMR.

[4] Section 01 of Ordinance No. 902 also defines the terms ''waste,'' ''hazardous waste,'' and ''chemotherapeutic waste.''

As discussed in Part II above, 49 U.S.C. 5125(b)(1)(A) provides that (in the absence of a waiver or specific authorization in another Federal law), a local requirement on ''the designation, description, and classification of hazardous material'' is preempted when it is not ''substantively the same as'' the HMR. Under this standard, the overall scheme of designation and classification of hazardous materials must be substantively the same as in the HMR. It is not sufficient that one particular definition is similar to a definition of a category of hazardous materials, or that the local ordinance covers ''essentially the same types of materials'' as the Borough stated, if the scheme of designation and classification are markedly different.

In this case, the definitions of ''infectious waste,'' ''hospital waste,'' and ''dangerous waste'' in Ordinance No. 902 are preempted by 49 U.S.C. 5125(b)(1)(A) because these terms are used to create a scheme for designating and classifying hazardous material that is not substantively the same as in the HMR. In addition, the word ''dangerous'' in the term ''dangerous waste'' is preempted under 49 U.S.C. 5125(b)(1)(A) because it is used and defined in Ordinance No. 902 in a manner that is substantively different from the use of the word ''dangerous'' in the HMR.

C. Prohibition Against Using Streets Other Than Route 1

Section 02 of Ordinance No. 902 provides that ''at this time'' the only street on which trucks may transport dangerous waste within the Borough is Route 1.[5] Because this limitation was established after November 14, 1994, it must comply with FMCSA's standards in 49 CFR part 397, subpart C. 49 CFR 397.69(a). These standards, issued pursuant to 49 U.S.C. 5112(b), specify that there must be:

—A finding by the State that the highway routing designation ''enhances public safety in the areas subject to its jurisdiction and in other areas which are directly affected by such highway routing designation.'' 49 CFR 397.71(b)(1).

—Notice to the public of the proposed routing designation, a 30-day period for the public to submit comments, and consideration of whether to hold a public hearing (with advance notice to the public). 49 CFR 397.71(b)(2).

—Notice to and consultation with ''officials of affected political subdivisions, States and Indian tribes, and any other affected parties,'' and completion of the routing designation process within 18 months of the notice to the public or notice to other affected jurisdictions. 49 CFR 397.71(b)(3), (6).

—Assurance of ''through highway routing * * * between adjacent areas.'' 49 CFR 397.71(b)(4).

—No unreasonable burden on commerce and agreement by any other affected State. 49 CFR 397.71(b)(5).

—Reasonable access for vehicles to terminals; pickup and delivery points and loading and unloading locations; and facilities for food, fuel, repairs, rest, and safe havens. 49 CFR 397.71(b)(7).

—Consideration of specific factors, including population density, emergency response capabilities, continuity of routes, alternative routes, effects on commerce, potential delays in transportation, and congestion and accident history. 49 CFR 397.71(b)(9).

In addition, the State must (1) ensure that its political subdivisions comply with FMCSA's standards and procedures (49 CFR 397.71(b)(8)); (2) make information on highway routing designations available to the public ''in the form of maps, lists, road signs or some combination thereof'' (49 CFR 397.73(a)); and (3) report highway routing designations to FMCSA for publication in the **Federal Register** (49 CFR 397.73(b)).[6]

Med/Waste stated that the Borough failed to follow FMCSA's standards and procedures when it designated Route 1 as the only street on which trucks may transport dangerous waste within the Borough; ''there was no notification that the Borough was even considering the Ordinance * * * and there is still no signage in the Borough regarding the restrictions of this Ordinance.''

Med/Waste also stated that the designation of Route 1 as the only street on which trucks may transport dangerous waste within the Borough cuts off access to its permitted facility at 1307 South Pennsylvania Avenue, which it has operated for more than five years. That address appears to be approximately three-quarters of a mile from Route 1 and, on the citations Med/Waste provided, the location of the violation is shown as Pennsylvania Avenue.

Sanitec, American and the Institute agreed that the Borough's routing limitation in Section 02 is invalid because the procedures in 49 CFR 397.71(b) were not followed. The Institute also stated that there was no notice of an opportunity to comment on ''the impacts of the routing restrictions,'' which prevents Med/Waste from access to its facility and also ''restricts intra and interstate transporters from servicing the many health care facilities located in and around the Borough.'' The Institute noted that the stated basis in Ordinance No. 902 for limiting trucks transporting dangerous waste to Route 1 cannot be valid because ''the Borough is not regulating other industries whose heavy trucks traverse roads located within the Borough.''

The Borough stated that the State of Pennsylvania has delegated to counties and municipalities ''the right to designate specific highway routes over which hazardous material may and may not be transported by motor vehicle.'' In response to Med/Waste's reference to 49 U.S.C. 31114, the Borough stated that there was no restriction ''on access to the interstate highway system'' because ''no interstate highways traverse the Borough of Morrisville.'' However, the Borough did not discuss the provisions in 49 U.S.C. 31114(a)(2) and 49 CFR 397.71(b)(7) that any routing designation may not prevent ''reasonable access'' to a motor carrier's terminals or points of pickup and delivery. Nor did the Borough dispute the assertions by Med/Waste and other commenters that this routing limitation was adopted without notice to the public and an opportunity to comment, as required by 49 CFR 397.71(b)(2).

It is clear that the Borough failed to comply with FMCSA's standards in 49 CFR part 397 when it adopted Section 02 of Ordinance No. 902, limiting trucks transporting dangerous waste to Route 1. Among other failures, the Borough did not follow the required notice and comment procedure, and its limitation prevents reasonable access to terminals and points of pickup and delivery. Section 02 of Ordinance No. 902 is preempted by 49 U.S.C. 5125(c)(1), because the Borough failed to comply with FMCSA's standards for establishing highway routing designations issued pursuant to 49 U.S.C. 5112(b).

[5] Section 02 states that because the Borough's streets ''are generally narrow, winding, and in places congested, and not generally designed to accommodate heavy or constant truck traffic,'' the Borough may ''designate certain routes and/or particular streets for use by motor vehicle trucks hauling DANGEROUS WASTE.'' There is no indication that the Borough has designated any streets other than Route 1.

[6] The routing designations and restrictions reported to FMCSA have been published in the **Federal Register**, 63 FR 31549 (June 9, 1998), 65 FR 75771 (Dec. 4, 2000), and they are also posted on FMCSA's internet web site at <http://hazmat.fmcsa.dot.gov>.

D. Requirement To Carry Uniform Manifest

Section 05(a) of Ordinance No. 902 requires that—

> Each truck hauling DANGEROUS WASTE shall carry and have available for inspection the manifest required for transportation of such waste under the Resource Conservation and Recovery Act, or federal or state regulations implementing that Act. Such manifest shall be presented upon request of any Morrisville Borough police officer.

In doing so, the Borough has extended the requirement to use a hazardous waste manifest, in 49 CFR 172.205, to materials that are not hazardous wastes. The HMR do not require the use of a specific form except for hazardous wastes. *See* 49 CFR 171.8 (definition of ''shipping papers'' as including ''a shipping order, bill of lading, manifest or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203 and 172.204'') and RSPA's final rule in Docket No. HM–145D, ''Hazardous Waste Manifest; Shipping Papers,'' 49 FR 10507 (Mar. 20, 1984) (there is no ''requirement for the use of a specific form'').

In its application, Med/Waste stated that, because ''Regulated medical waste as defined by the HMR is not a hazardous waste as defined in 40 CFR part 262,'' the Borough's manifest requirement conflicts with 49 CFR 172.205(a). Sanitec and American stated that the requirement to transport medical waste under a uniform hazardous waste manifest ''is in direct conflict with the current regulatory scheme.'' The Institute stated that EPA's ''manifesting requirements apply to hazardous wastes, which do not include infectious substances'' and that ''DOT adopted RCRA's hazardous waste manifesting regulations under the shipping paper requirements, but only for those wastes defined as a hazardous waste under federal rules.''

EPA has stated that the uniform manifest form *may* be used for ''wastes defined as hazardous by either the generator's State or the consignment State, but not defined as hazardous by EPA or DOT.'' EPA's final rule adopting the uniform manifest, 49 FR 10490, 10495 (Mar. 20, 1984). However, RSPA found that additional requirements by States (or localities) for the use of a specific form beyond what is required in Federal regulations create ''a substantial burden for both generators and transporters.'' 45 FR at 10507. Moreover, EPA regulations specifically provide that a State may not ''impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include * * * optional State information items.'' 40 CFR 271.10(h)(3).

Congress amended the HMTA in 1990 to provide that (in the absence of a waiver or specific authorization in another Federal law), a local requirement on ''the preparation, execution, and use of shipping documents related to hazardous material'' is preempted when it is not ''substantively the same as'' the HMR. 49 U.S.C. 5125(b)(1)(C). In adding this provision, Congress specifically found that ''consistency in all aspects of [shipping] documents will promote more precise and easier identification of any hazardous material, improve systems for handling hazardous materials, and enhance capabilities for dealing with emergencies associated with the transportation of hazardous materials.'' H. Rep. 101–444, Part 1, 101st Cong, 2nd Sess., p. 34.

Because the HMR does not require the use of any specific form for shipments of regulated medical waste (or other hazardous materials that are not hazardous wastes), the requirement in Section 05 of Ordinance No. 902 that a uniform hazardous waste manifest be carried on any truck transporting dangerous waste within the Borough is not substantively the same as requirements in the HMR for the ''preparation, execution, and use of shipping papers.'' Accordingly, Section 05 of Ordinance No. 902 is preempted by 49 U.S.C. 5125(b)(1)(C).

E. Discussion of Other Requirements

In its comments submitted in response to the April 14, 2000 notice, Med/Waste referred to additional provisions in Ordinance No. 902 on speed limits, accident reporting, time limits on storage of dangerous waste, and the posting of a $50,000,000 indemnity bond with the Borough Secretary as part of a separate regulatory scheme that should be found to be preempted. Other commenters addressed the storage time limits and the bond. American also referred to requirements of the Pennsylvania Department of Environmental Protection (DEP) for marking and labeling containers and vehicles used to transport infectious waste and chemotherapeutic waste and requested DOT to find that ''the conflicting parts of the Pennsylvania Code should also be preempted.'' No determination is being made whether Federal hazardous material transportation law preempts these additional requirements because the April 14, 2000 notice in the **Federal Register** did not clearly indicate that RSPA and FMCSA would consider these other requirements or regulations of Pennsylvania DEP. However, the following general discussion is provided with respect to other provisions in Ordinance No. 902.

1. *Speed limits.* Section 03 of Ordinance No. 902 states that:

> Trucks carrying DANGEROUS WASTE within the Borough of Morrisville are hereby limited to the designated speed limit on Route 1, and the posted speed limit on any other state or Borough road within the Borough of Morrisville that may eventually be approved for use by such trucks bearing DANGEROUS WASTE.

Med/Waste seems to read this section as authorizing the Borough to set specific speed limits for trucks carrying ''dangerous waste'' that are different from the speed limits applicable to other vehicles traveling on the same roads. However, no other comments addressed this section or provided any information on whether and how the Borough is implementing this provision.

Speed limits are a form of local traffic controls that are not specifically addressed in the HMR, and they are ''presumed to be valid.'' IR–32, City of Montevallo, Alabama Ordinance on Hazardous Waste Transportation, 55 FR 36736, 36744 (Sept. 6, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992). It is possible that a substantially lower speed limit applicable only to trucks carrying one or more hazardous materials, as compared to other trucks of similar size and weight, could cause congestion and create an obstacle to the safe transportation of hazardous materials. However, in the absence of ''significant relevant evidence,'' including the speed limit for other vehicles, RSPA has not found that a local speed limit is preempted. *Id.*

2. *Accident reporting.* Section 05(c) of Ordinance No. 902 states that ''Each driver of any such truck [carrying dangerous waste] shall immediately report any accident or collision involving his truck to the Borough of Morrisville police.'' The Institute stated that this requirement is substantively different than the requirement in 49 CFR 171.15 for a carrier to immediately report certain incidents in transportation to the National Response Center, Federal Aviation Administration, or Centers for Disease Control.

In PD–18(R), Broward County, Florida Requirements on Transportation of Certain Hazardous Materials, 65 FR 81950 (Dec. 27, 2000), petition for reconsideration pending, RSPA recently explained that only *written* incident reporting requirements are preempted when those requirements are not

substantively the same as provisions in the HMR. Rather, Congress did not intend the ''substantively the same as'' standard to apply to oral incident reporting, and ''RSPA and the courts have consistently held that requirements for immediate, oral accident/incident reports for emergency response purpose generally are consistent with Federal law and regulations and, thus, not preempted.'' *Id.* at 81955.

3. *Time limits on storage.* Section 06 of Ordinance No. 902 provides that, ''[e]xcept as provided for by DEP regulations,'' dangerous waste may not be stored ''in one place'' within the Borough for more than 24 hours, and ''in separate places'' for a total of more than 48 hours.

The Institute stated that this time limit on storage creates an obstacle to the handling requirements in the HMR if this restriction is applied to storage that is a part of transportation (such as at a transfer station). It referred to PD–9(R), California and Los Angeles County Requirements Applicable to the On-site Handling and Transportation of Hazardous Materials, 60 FR 8774, 8783 (Feb. 15, 1995), petition for reconsideration pending.

In PD–9(R), RSPA found that Federal hazardous material transportation law preempts a local prohibition against a rail tank car being connected for transfer (unloading) operations at a consignee's facility for more than 24 hours, unless otherwise approved by the Fire Chief, because the local regulation was not substantively the same as requirements in the HMR on tank car unloading procedures (which contained no time limit). *Id.* at 8788. In IR–19, Nevada Public Service Commission Regulations Governing Transportation of Hazardous Materials, 52 FR 24404, 24409–10 (June 30, 1987), decision on appeal, 53 FR 11600, 11603 (April 7, 1988), upheld in *Southern Pac. Transp. Co.* v. *Public Serv. Comm'n of Nevada*, 909 F.2d 352, 358 (9th Cir. 1990), RSPA also found that a prohibition against storage or retention of hazardous materials for more than 48 hours without a permit was inconsistent with the ''comprehensive series of regulations [in the HMR] relating to the storage of hazardous materials incidental to transportation by rail.''

The decisions in PD–9(R) and IR–19 may not be directly on point, because the HMR do not contain the same comprehensive procedures on interim storage during highway transportation (other than the separation and segregation requirements in 49 CFR 177.848). While the HMR prohibit any ''unnecessary delay'' in the highway transportation of hazardous materials, ''from and including the time of commencement of the loading of the hazardous material until its final unloading at destination,'' 49 CFR 177.800(d), specific time limits on interim storage of hazardous materials apply only to rail shipments. *See* 49 CFR 174.14 (shipments of hazardous materials by rail must be forwarded ''promptly and within 48 hours (Saturdays, Sundays, and holidays excluded),'' or on the first available train when only biweekly or weekly service is performed).

The 10-day period during which a transporter may store hazardous wastes at a transfer station without obtaining a permit, in EPA's regulations at 40 CFR 263.12, also does not apply to ''dangerous wastes'' as defined in Ordinance No. 902, because these are not hazardous wastes, as discussed above. Rather, the absence of a more specific time limitation in the HMR on interim storage of hazardous materials in highway transportation reflects RSPA's view that this type of limitation is not necessary or appropriate for hazardous materials that are not hazardous wastes. The Supreme Court has found that local requirements on transportation may be preempted when the DOT ''has decided that no such requirement should be imposed at all.'' *Ray* v. *Atlantic Richfield Co.*, 435 U.S. at 171–72.

4. *Indemnity bond.* Under Section 05(d) of Ordinance No. 902, a truck carrying dangerous waste may not enter the Borough unless the truck driver or owner or consignor of the dangerous waste has deposited with the Borough Secretary—

> an indemnity bond with limits of not less than $50,000,000 per occurrence * * * conditioned to pay all or part of such sum as damages or restitution to the Borough of Morrisville unless the responsible party shall reimburse any person, firm, partnership, trust or corporation, including the Borough itself, for any damages to person, property or natural resources resulting from the hauling of such DANGEROUS WASTE, or accidents or spills incident thereto, in the Borough of Morrisville.

Med/Waste stated that the requirement for a $50,000,000 indemnity bond ''is so excessive that it actually makes the Ordinance prohibitive.'' Sanitec and American stated that this requirement creates a ''separate regulatory scheme'' that conflicts with the HMR and is an obstacle to accomplishing and carrying out the HMR. Biosystems stated that the indemnity bond requirement ''is an extreme impediment to interstate commerce'' that seems to apply to through traffic as well as that ''originating or destined within the borough.'' Biosystems also stated that the amount of the bond ''is patently unreasonable on its face'' and compared it to ''State environmental'' requirements for liability insurance of $1 million to $2 million (for those who transport regulated medical waste) or $5 million (for those who operate a medical waste treatment facility).

The Institute stated that the requirement for an indemnity bond is actually a ''back door approach to creating routing restrictions,'' because it ''is clearly intended to prevent any vehicle transporting infectious waste from ever entering the Borough.'' It states that $50,000,000 ''far exceeds the worst case scenario for a single vehicle transporting infectious waste,'' and echoes the statement of Biosystems that closure bonds required by some States for an entire infectious waste facility are a small fraction of the amount required by Ordinance No. 902.

Under FMCSA's regulations, transporters of regulated medical waste must maintain at least $1,000,000 in insurance, surety bonds, or evidence of self-insurance. 49 CFR 387.9 (with exceptions in 387.3(c) for intrastate carriers transporting non-bulk packagings and all carriers using smaller vehicles, less than 10,000 pounds gross vehicle weight rating). Under the required endorsement form, this financial responsibility covers bodily injury, property damage, and environmental restoration. 49 CFR 387.15.

In several inconsistency rulings, RSPA found that non-Federal requirements for indemnity bonds (or other forms of financial responsibility) specifically applicable to hazardous materials, beyond those prescribed in 49 CFR part 387, are in conflict with the purposes and objectives of the HMTA and the HMR. IR–25, Maryland Heights, Missouri Ordinance Requiring Bond for Vehicles, 54 FR 16308, 16311 (Apr. 21, 1989); IR–18, Prince Georges County, Maryland Code Section Governing Transportation of Radioactive Materials, 52 FR 200, 204 (Jan. 2, 1987); IR–10 (New York State Thruway Authority), IR–11 (Ogdensburg Bridge and Port Authority), and IR–15 (Vermont), 49 FR 46632, 46645, 46647, 46660 (Nov. 27, 1984). In IR–25, 54 FR at 16311, RSPA stated that:

> The existence in the U.S. of more than 30,000 local jurisdictions, each having the potential to impose such [bonding] requirements demonstrates the havoc which could be created if even a small percentage of them were to impose such requirements (with their inevitable differences). It would

be extremely difficult for carriers to learn about, let alone comply with, such local requirements.

In PD–1(R), Maryland, Massachusetts, and Pennsylvania Bonding Requirements for Vehicles Carrying Hazardous Wastes, 57 FR 58848, 58854 (Dec. 11, 1992), decision on petitions for reconsideration, 58 FR 32418 (June 9, 1993), RSPA also found that State requirements to post a bond in order to pick up or deliver hazardous waste within the State were preempted because of ''the potential for expense and delay associated with meeting these requirements, as well as the diversion of traffic to other States when the hazardous waste transporter cannot or does not post the required bond.'' RSPA's determination as to Massachusetts' requirement was overturned by a Federal Court of Appeals in *Commonwealth of Massachusetts* v. *United States Dep't of Transp.*, 93 F.3d 890, 892 (D.C. Cir. 1996), where the Court found that Massachusetts required a performance bond to assure that the transporter ''shall faithfully perform all the requirements'' of the State. The Court stated that the bond required by Massachusetts was ''distinct from other forms of liability insurance requirements'' because it did not create ''a general fund against which other parties may seek indemnity for their claims against the transporter.'' *Id.*

The performance bond in the *Massachusetts* case is distinguishable from the indemnity bond required under Ordinance No. 902. In addition, as discussed in PD–20(R), Cleveland, Ohio Requirements for Transportation of Hazardous Materials, 66 FR 29867, 29870 (June 1, 2001), RSPA and FMCSA disagree with the conclusion of the Court of Appeals in the *Massachusetts* case that the ''obstacle'' test for preemption in 49 U.S.C. 5125(a)(2) only applies to non-Federal requirements ''with which a party cannot comply if it complies with the HMTA, or [non-Federal] rules that otherwise pose an obstacle to fulfilling explicit provisions, not general policies, of HMTA.'' 93 F.3d at 895.

IV. Ruling

Federal hazardous material transportation law preempts the following provisions in Ordinance No. 902 of the Borough of Morrisville, Pennsylvania:

1. The definitions of ''infectious waste,'' ''hospital waste,'' and ''dangerous waste'' in Section 01 and the use of the term ''dangerous waste'' throughout the ordinance.

2. The designation of Route 1 (between the Delaware River Toll Bridge and the boundary line with the Township of Falls) as the only street in the Borough that may be used by trucks transporting dangerous waste, in Section 02.

3. The requirement that each truck transporting dangerous waste carry and have available ''the manifest required for transportation of such waste under the Resource Conservation and Recovery Act, or federal or state regulations implementing that Act,'' in Section 05(a).

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a) and 397.223(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register.** Any party to this proceeding may seek review of RSPA's decision ''in an appropriate district court of the United States * * * not later than 60 days after the decision becomes final.'' 49 U.S.C. 5125(f).

This decision will become the final decision of RSPA and FMCSA 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of publication in the **Federal Register**, the action by RSPA and FMCSA on the petition for reconsideration will be the final decision. 49 CFR 107.211(d), 397.223(d).

Issued in Washington, DC, on July 9, 2001.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development, Federal Motor Carrier Safety Administration.

[FR Doc. 01–17572 Filed 7–16–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meetings

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting describing the results of the nineteenth session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) held from 2 to 6 July 2001 in Geneva, Switzerland.

DATES: August 7, 2001 9:30 AM–12:30 PM, Room 8236–8238.

ADDRESSES: The meeting will be held at DOT Headquarters, Nassif Building, Room 8236–8238, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bob Richard, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting will be to describe the results of the nineteenth session of the UNSCOE. Topics to be covered during the public meeting will include (1) Global harmonization of classification criteria, (2) Criteria for Environmentally Hazardous Substances, (3) Intermodal requirements for the transport of solids in bulk containers, (4) Harmonized requirements for compressed gas cylinders, (5) Classification of individual substances, (6) Requirements for packagings used to transport hazardous materials, (7) Requirements for infectious substances, and (8) Hazard communication requirements.

The public is invited to attend without prior notification.

Documents

Copies of documents for the UNSCOE meeting may be obtained by downloading them from the United Nations Transport Division's web site at *http://www.unece.org/trans/main/dgdb/dgsubc/c3doc.html.* Information concerning UNSCOE meetings, including agendas, can be downloaded at *http://www.unece.org/trans/main/dgdb/dgsubc/c3.html.* These sites may also be accessed through RSPA's Hazardous Materials Safety Homepage at *http://hazmat.dot.gov/intsandards.htm.*

Issued in Washington, DC, on July 11, 2001.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–17799 Filed 7–16–01; 8:45 am]

BILLING CODE 4910–60–M