

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.

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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.

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