



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

FEB 1 2002

Mr. Steven Smith  
843 Lindenwood Drive  
Pittsburgh, PA 15234-2536

Ref. No. 01-0277

Dear Mr. Smith:

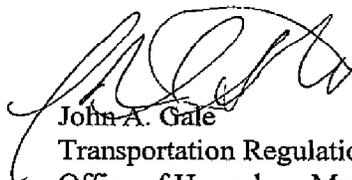
This responds to your October 15, 2001 letter, and November 30 and December 5, 2001 telephone conversations with this office's staff concerning a leaking package of "1, 1, 1-Trichloroethane solution, 6.1, UN 2831, PG III" you found on your truck when you worked for Consolidated Freightways (CF) in 1996. You stated CF's management directed a dock worker to load the package after discovering it was damaged. You asked us if it was CF's responsibility to put the leaking package in another authorized container before loading it on your truck.

Although the shipper is primarily responsible for ensuring that a hazardous materials is properly packaged, as stated in § 173.22, if a leaking package is discovered before it is loaded on a motor vehicle, § 177.801 prohibits the carrier from accepting it for transportation. If the leaking package is discovered after it is loaded, § 177.854(b) requires the package to be managed for disposal by the safest practical means as provided in § 177.854(c), (d), and (e).

You also stated CF filed a false incident report that incorrectly described the package's condition when loaded. Submitting false, fictitious, or fraudulent written statements to the federal government may be a violation of 18 USCS § 1001. In addition, you stated that CF did not provide you with a material safety data sheet (MSDS) when offering you the load, although in earlier correspondence you stated you carried an emergency response guidebook (ERG) in the cab of your truck. As we stated in our October 5, 2001 letter, provided the information is consistent with the emergency response information requirements in 49 CFR Part 172, Subpart G, use of a separate document, such as an ERG, in a manner that cross references the description of the hazardous material on the shipping paper with the emergency response information contained in the document may be used in place of an MSDS.

I hope this satisfies your request.

Sincerely,



John A. Gale  
Transportation Regulations Specialist  
Office of Hazardous Materials Standards



010277

173.22

Edmonson

§ 173.22

Shipper's Responsibility

01-0277

John A. Gale  
Transportation Regulation Specialist  
Office of Hazardous Material Standards

OCT 15 2001

Dear Mr. Gale

I am responding to your letter dated Oct 5 2001, Ref no 00-0255. I am making you aware of a mis understanding.

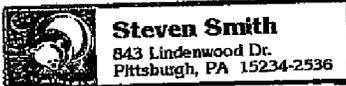
Consolidated Freightway put the damaged shipment of trichloroethane on the trailer after it was received at the dock damaged.

Consolidated Freightway should have put this shipment into a recovery container instead of loading the shipment damaged.

Consolidated Freightway was the guilty party of putting the damaged shipment on the tractor without the MSDS.

If you need more information please call me. 412-343-7454.

Yours truly  
Steven Smith





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Research and Special Programs Administration

400 Seventh St., S.W.  
Washington, D.C. 20590

OCT 5 2001

Mr. Steven Smith  
843 Lindenwood Drive  
Pittsburgh, PA 15234-2536

Ref. No. 00-0255

Dear Mr. Smith:

This is in response to your letter and telephone call with the staff of the Office of Hazardous Materials Standards asking what a shipper's responsibilities are under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) when it has offered a damaged package of hazardous material for transportation. You stated a shipper loaded a leaking package of adhesive described as "1, 1, 1-Trichloroethane solution, 6.1, UN 2831, PG III" on your truck, but did not provide you with a material safety data sheet on the material or salvage packaging to contain the damaged package. You also stated you carried an emergency response guidebook (ERG) in the cab of your truck. I apologize for the delay in responding and any inconvenience this may have caused.

A shipper is required to ensure that a hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required under the HMR (see § 173.22). Under § 171.2(a) and (b), no person may accept a hazardous material for transportation or transport a hazardous material in commerce unless it meets these conditions. Further, under § 177.801, no person may accept or transport by motor vehicle a hazardous material unless it conforms to all applicable requirements. A leaking hazardous materials package may not be transported unless it is placed in a salvage drum (see § 173.3(c)).

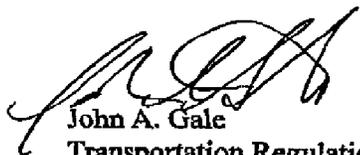
You are correct that a shipper must provide emergency response information to accompany a hazardous materials package if a shipping paper is required. The shipper can present the information on the shipping paper; an accompanying document, such as a material safety data sheet (MSDS); or in a separate document, such as the ERG you carried on your truck. The information must be consistent with the provisions in 49 CFR Part 172, Subpart G.

*7) A dock worker at Consolidated  
Freightways was told to load a damaged  
shipment after management was made  
aware the shipment was damaged  
and filed a case report to DOT on how shipment was loaded*

Sections 172.700-172.704 of the HMR require all hazmat employees who perform functions subject to requirements in the HMR be trained. This training must cover measures to protect the employee from the hazards associated with the hazardous materials to which they may be exposed in the workplace and specific measures the employer has implemented to protect employees from exposure (see § 172.704(a)(3)(ii)).

I hope this satisfies your request.

Sincerely,



John A. Gale  
Transportation Regulations Specialist  
Office of Hazardous Materials Standards