



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

MAY 5 2005

Ms. Robin J. Eddy Bolte  
Safety and Regulatory Affairs Manager  
Allied Universal Corporation  
3901 N. W. 115 Ave.  
Miami, FL 33178-1859

Reference No.: 05-0046

Dear Ms. Eddy Bolte:

This responds to your fax requesting clarification of the emergency response information requirements under the Hazardous Material Regulations (HMR; 49 CFR parts 171-180). Your fax states that your company provides the emergency response information in material safety data sheets (MSDSs), which are in a binder, along with the following documents:

- a) Hazardous materials registration,
- b) List of company emergency contact phone numbers,
- c) Insurance and vehicle registration,
- d) Accident Kit, and
- e) Applicable DOT exemptions.

In response to a request by a member of my staff, you submitted a complete Emergency Information binder. The binder is a plain white three-ring binder without markings on the spine or cover to indicate the content of the binder. The above-listed documents are in the front of the binder followed by fifteen MSDSs. The MSDSs are separated from the other documents by a plain yellow divider sheet. You ask if a MSDS for a hazardous material being transported satisfies the requirements in § 172.602 and whether MSDSs must be indexed.

Any document, including an MSDS, that contains all of the information specified in § 172.602(a)(1) through (7) may be used to satisfy the emergency response information requirement. See § 172.602(b). Section 172.602(c)(1) requires the carrier to maintain the emergency response information in the same manner as prescribed for shipping papers. Specifically, § 177.817(e) states that shipping papers must be readily available to, and recognizable by, authorities in the event of an accident or inspection. Also, the driver and the carrier must clearly distinguish the shipping paper, if it is carried with other shipping papers or other papers, by either distinctively tabbing it or by having it appear first. Applying these requirements to the binder you submitted, it is our opinion that your unmarked binder is not "readily recognizable" to a first responder as containing emergency response information; further, MSDSs in a binder with other documents should be tabbed or appear first in the binder.



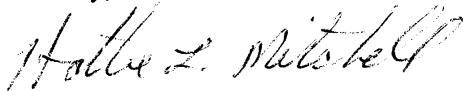
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172.602(b)

We also note that MSDSs for hazardous and non-hazardous materials are intermixed in the binder, and, while you have attempted to arrange the MSDSs in alphabetical order, some MSDSs are filed by DOT proper shipping name and others by product name. Consistency in maintaining the emergency response information would be beneficial to a first responder in the event of an incident or accident.

I trust this satisfies your inquiry.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned above the typed name.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Safety



Corbin  
 3172.602 (b)  
 Emergency Response  
 05-0046

3901 NW 115 Avenue  
 Miami, Florida 33178  
 305-888-2623 office  
 305-885-4671 fax

March 1, 2005

Mr. Edward Mazzullo  
 Director of Hazardous Materials Standards Development  
 Office of Hazardous Materials Standards Development  
 Pipeline and Hazardous Material Safety Administration  
 400 Seventh Street, S.W.  
 Washington, D.C. 20590-0001

VIA FACSIMILE: 202-366-3012

Re: Georgia Citation

Dear Mr. Mazzullo:

Please find attached a citation issued by the State of Georgia as well as our response to the citation and their response to our letter.

**Background**

Transportation Services Unlimited Inc. is a private transportation company hauling exclusively for Allied Universal Corporation. On the date of September 8, 2004, one of the units transporting Hypochlorite Solutions (Sodium Hypochlorite), class 8, UN1791, PGIII, underwent a roadside inspection conducted by the Georgia Department of Motor Vehicles. During the inspection, two violations were found. The citation is enclosed.

We disagree with one violation listed for 49 CFR 172.602(b). To comply with the requirements of 49 CFR 172 Subpart G, we provide all vehicles hauling our hazardous materials with a one-inch binder (we refer to it as the Emergency Information Binder or MSDS Binder, Georgia referred to it in the citation as the Permit Binder) that contains:

- 1) Hazardous Material Registration Certificate (49 CFR 107 Subpart G);
- 2) List of Emergency Contact Phone Numbers in the company;
- 3) Insurance and Vehicle Registration;
- 4) Accident Kit (to be completed if involved in an accident);
- 5) Applicable Department of Transportation Exemptions; and,
- 6) Material Safety Data Sheets for all the hazardous materials being transported, in alphabetical order by technical name.

During training to comply with 49 CFR 172 Subpart H, all drivers are trained to know that this binder contains emergency response information required by 49 CFR 172 Subpart G. They are trained on its contents, and are informed that they are to keep the binder at an arm's reach while wearing their seat belt when they are driving the vehicle. When absent from the vehicle, they are trained to place the binder with their shipping papers on top of the driver's seat or inside the pouch on the driver's side door.

In our argument to Georgia, we stated that our binders met the requirements of the regulation. The emergency response guidebooks are not mandatory (as stated in your 1999 interpretation, Ref. No. 99-0018), and the Material Safety Data Sheets in the binder contained the required elements listed in 172.602(b), meeting if not exceeding the regulatory requirement. Furthermore, the vehicle operator would have to look-up or search through the guidebook as he did the Material Safety Data Sheets to find the correct guide page. Please see enclosed letter from Miriam Guerrero to the State of Georgia.

March 2, 2005  
Page 2, Emergency Response Information

Allied Universal Corporation

The State of Georgia responded to our letter, stating the Material Safety Data Sheets were not a suitable alternative to the North American Emergency Response Guidebook as the sheets were not indexed, making them not accessible to information.

### Questions

- 1) Is it legal for us to use Material Safety Data Sheets that satisfy the requirements of 49 CFR 172 Subpart G in the manner described above?
- 2) Is there any requirement for indexing? Could we face a possible enforcement action by simply placing the Material Safety Data Sheets in the binder in alphabetical order as we are doing? Would this be deemed not accessible information as indicated in the Georgia letter?

Your promptness in responding to our questions is greatly appreciated given the frequent inspections the tractor-trailers undergo while operating in the State of Georgia. We want to properly comply with the regulatory requirements, but we feel we have and are being incorrectly cited. We have spoken to your hazardous material hotline, and the gentleman on the phone, Kevin, based upon the information given, agreed. However, given the nature of the circumstances, a second review and response in writing would be greatly appreciated.

If you should have any questions, please call me at 800-981-6700, extension 183 or RobinE@Allieduniversal.com.

Thank you.

Sincerely,



Robin J. Eddy Bolte  
Safety and Regulatory Affairs Manager  
Allied Universal Corporation



**Georgia Department of Motor Vehicle Safety  
Law Enforcement Division**

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February 16, 2005

Ms. Miriam Guerrero  
Transportation Services Unlimited  
3901 NW 115 Avenue  
Miami, FL 33178

Dear Ms. Guerrero

This is in response to your letter of September 14, 2004 concerning DMVS Inspection Report GA0137000895. I apologize for the delay in responding and any inconvenience it may have caused.

I have spoken to Officer Massey about this inspection, and after careful consideration, am forced to agree with his analysis of the situation. An unindexed binder full of material safety data sheets is not equivalent to an Emergency Response Guidebook in accessibility of information.

Emergency Response Information must be accessible in the same manner as shipping papers, that is, either in a pocket on the drivers' door, or visible to a person entering the cab of the truck and within the reach of a belted driver. If you choose to use an MSDS binder to meet this requirement, in order to meet the accessibility requirement, it is my opinion that the binder should be tabbed or indexed in some manner, in addition to being in one of the locations required under 49 CFR §172.602(c) and §177.817(e).

I hope this information is helpful. If you need more information, please let me know.

Sincerely,

Capt. Bruce Bugg