



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

OCT 17 2008

Mr. Mickey R. Dragash
WAL-MART
Legal Department
Logistics Division
601 North Walton Blvd, MS L20
Bentonville, Arkansas 72716-0710

Ref. No.: 08-0133

Dear Mr. Dragash:

This responds to your letter dated April 30, 2008, regarding requirements under the Hazardous Materials Regulations (HMR; 49 CFR, Parts 171-180) that apply to loading hazardous materials on the rear of a trailer for purposes of inspection.

You provided the following scenario:

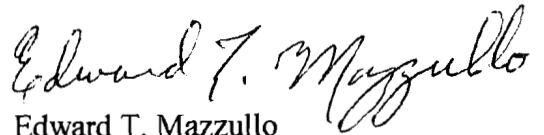
Wal-Mart regularly transports hazardous material commodities by its private fleet. Frequently, local law enforcement will stop Wal-Mart vehicles and request that the drivers make hazardous material shipments available for inspection. Many times Wal-Mart is unable to comply because the hazardous material shipment may be loaded anywhere throughout the trailer with multiple general merchandise shipments loaded behind it. Local law enforcement takes the position that the hazardous material shipment should be loaded on the rear of the trailer. Since the shipment is not on the rear, the Officer will direct the Wal-Mart driver to the nearest rest stop location, citing 49 CFR 177.802, and order that the trailer be unloaded so that the Officer can view the shipment. This causes Wal-Mart considerable hardship from both an economic and productivity standpoint. It is your understanding that 49 CFR 177.802 does not require loading of hazardous materials shipments on the rear of a trailer for inspection.

Your understanding is correct. Nothing in the HMR specifies that hazardous materials shipments must be loaded on the rear of a transport vehicle. In accordance with 49 CFR 177.802, records, equipment, packagings and containers under the control of a motor carrier, insofar as they affect safety in transportation of hazardous materials by motor vehicle, must be made available for examination and inspection by a duly authorized

representative of the Department.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Edward T. Mazzullo". The signature is written in black ink and is positioned above the printed name.

Edward T. Mazzullo
Director
Office of Hazardous Materials Standards

WAL-MART®
LEGAL DEPARTMENT

LOGISTICS DIVISION

Engrum
§177.802
Inspection
08-0133
CORPORATE OFFICES
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Mick.Dragash@walmartlegal.com

Mick R. Dragash
Assistant General Counsel

April 30, 2008

VIA REGULAR U.S. MAIL

Office of Hazardous Materials Standards
Pipeline & Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation, East Building
1200 New Jersey Avenue, S.E.
Washington, DC 20590-0001

Re: HMR; 49 CFR § 177.802 (Inspection)

To Whom It May Concern:


I am requesting formal guidance and clarification regarding the regulation referenced above. In Wal-Mart's experience, local law enforcement officials tend to be confused with the purpose of this regulation. An interpretation from the Pipeline and Hazardous Materials Safety Administration ("PHMSA") would clarify this regulation's application to the special circumstances encountered by Wal-Mart.

As a national retailer, Wal-Mart regularly transports hazardous material commodities by its private fleet. Frequently, local law enforcement will stop Wal-Mart vehicles and request that the drivers make hazardous material shipments available for inspection. Many times, Wal-Mart is unable to comply with the demand because the hazardous material shipment may be loaded anywhere throughout the trailer with multiple general merchandise shipments loaded behind it. Local law enforcement takes the position that the hazardous material shipment should be loaded on the rear of the trailer. Since the shipment is not on the rear, the officer will direct the Wal-Mart driver to the nearest rest stop location, citing 49 CFR § 177.802, and order that the trailer be

unloaded so that the officer can view the shipment. Obviously, this causes Wal-Mart considerable hardship from both an economic and productivity standpoint.

It is Wal-Mart's contention that the regulation does not require it to load hazardous material shipments on the rear of a trailer for inspection. Therefore, since the PHMSA has not previously provided any review or analysis of this regulation, Wal-Mart respectfully requests an interpretation specifically addressing this fact pattern.

Sincerely,



Mickey R. Dragash