



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

FEB 13 2004

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

Mr. Mitch Ricketts, CSP  
Health, Safety & Environment Quality Coordinator  
Kansas State University  
113 Waters Hall  
Manhattan, KS 66506

Ref No. 03-0326

Dear Mr. Ricketts:

This responds to your December 10, 2003 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of hazardous materials by state agencies. Specifically, you ask to what extent state agencies are subject to regulation under the HMR.

As provided in your letter, Kansas State University is a state agency operating research farms throughout the state of Kansas. Portions of your crops are sold, while others are used for research purposes only. You question whether the transport of hazardous materials by the University from the point of purchase to farms throughout the state is regulated by the HMR. In addition, you ask whether the transport of pesticides and other chemicals from your farms throughout the state to your central hazardous waste storage site in Manhattan, Kansas, is regulated by the HMR.

As specified in § 171.1, the HMR govern the safe transportation of hazardous materials in commerce. A state agency or local jurisdiction that transports hazardous materials for governmental purposes using its own personnel is not engaged in transportation in commerce, and, therefore, is not subject to the HMR. However, if the state agency or local jurisdiction transports hazardous materials for a commercial purpose or offers hazardous materials, including hazardous waste, for transportation to a commercial carrier, then the HMR apply. Although some of the crops raised on Kansas State University farms are sold, the underlying purpose of the farming operations is to support the education and research mission of the University. Therefore, the transportation of hazardous materials by the



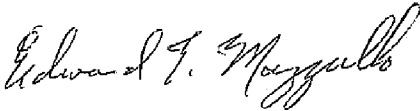
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University from the point of purchase to farms throughout the state and of hazardous waste from the farms to your central storage site is not subject to the HMR when the transportation is performed by University personnel.

I hope this information is helpful.

Sincerely,

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

Edward T. Mazzullo.  
Director, Office of Hazardous  
Materials Standards

Foster  
3171.1  
Applicability  
03-0326



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December 10, 2003

Edward T. Mazzullo, Director  
Office of Hazardous Materials Standards  
U.S. DOT/RSPA (DHM-10)  
400 Seventh Street S.W.  
Washington, DC 20590-0001

Mr. Mazzullo

To what extent are state agencies covered by the hazardous materials transportation regulations? I have received conflicting answers to this question from federal authorities. I recently called the DOT Hazardous Materials Information Center, and the person I spoke with suggested that I write to you for a determination. The specific issues are as follows:

Kansas State University is a state agency. As a land grant institution, we operate research farms throughout the state of Kansas. Some of the crops are sold, while some are used only for research purposes. Any revenue obtained from sales is used to support our research and educational activities (we are a nonprofit agency). We would like to be able to transport substances such as ammonium nitrate fertilizer and pesticides from the point of purchase to our farms throughout the state. We would also like to transport pesticides and other chemicals from our farms throughout the state to our central hazardous waste storage site in Manhattan, KS. To what extent are these activities regulated under the hazardous materials transportation regulations, given that we are a state agency?

I look forward to receiving your reply.



Mitch Ricketts, CSP  
Health, Safety & Environmental Quality Coordinator

"Knowledge  
for Life"