



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

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

APR 17 2003

Mr. Dwight Fast
DOT/Hazmat Coordinator
Qualex, Inc.
4020 Stirrup Creek Drive, Suite 211
Durham, NC 27703

Ref. No. 03-0055

Dear Mr. Fast:

This is in response to your February 10, 2003 letter regarding the applicability of the materials of trade (MOTS) exception specified in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered below.

Q1. Would the MOTs exception apply to the carriage of hazardous materials in a Qualex vehicle from the Qualex mix site to a Qualex distribution center.

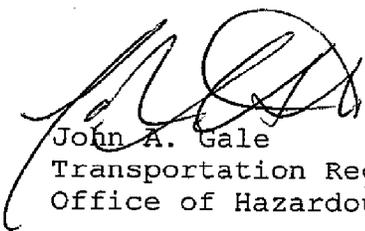
A1. The answer is yes. Provided all of the applicable conditions under § 173.6 are met, the MOTS exceptions would be applicable to the above specified scenario.

Q2. Would the MOTs exception apply to the carriage of hazardous materials in a Qualex vehicle from the Qualex distribution center to a client site.

A2. See the answer to Question 1.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,


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



030055

173.6



Qualex, Inc.
4020 Stirrup Creek Drive
Suite 211
Durham, NC 27703

BAH
§173.6
MOTC
03-0055

February 10, 2003

U. S. Department of Transportation
Office of Hazardous Materials Standards
400 Seventh Street, S. W.
Washington, DC 20590

Subject: Materials of Trade Interpretation

To: Regulatory Review Officer,

I would like to request a written regulatory interpretation of the Materials of Trade Exception under 49 CFR, Section 171.8. Do the following scenarios meet the Materials of Trade Exception provided that all provisions under Section 173.6 are satisfied?

Facts - Qualex principal business is to maintain Qualex owned Photo Processing Mini-Labs at various customers in the USA. A Qualex owned truck transports Photo Processing Supplies including chemistry from Qualex Mix Sites through a Qualex operated Distribution Center to the Customers Facility. One of the Photo Process Chemicals is classified as a Hazardous Material Class 8, PG III. Qualex drivers routinely deliver Photo Process Supplies to Customer Facilities. The customer does not order the supplies or contact Qualex unless there is a problem with the equipment. The inventory of the equipment and supplies belongs to Qualex and is maintained by Qualex Accounting Department. The customer is invoiced by the number of pictures developed and never takes ownership of the equipment and supplies.

Scenario 1 - Is the shipment of Photo Processing Supplies in a Qualex owned truck from the Qualex Mix Site to Qualex Distribution Center covered under Materials of Trade Exception?

Scenario 2 - Is the shipment of Photo Processing Supplies in a Qualex owned truck from the Qualex Distribution Center to the Qualex Customer's Facility covered under the Material of Trade Exception?

Qualex, Inc. takes its safety responsibilities very seriously and wants to make sure its activities comply with all regulatory requirements. If you have any questions concerning this request, please call me.

Sincerely,

Dwight Fast
DOT/Hazmat Coordinator
919-484-3489

Kodak Service & Support