



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

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

OCT 17 2003

Mr. David M. Bloom
Manager-Environment, Health and Safety
Exide Technologies
13000 Deerfield Parkway
Building 200
Alpharetta, GA 30004

RefNo. 03-0238

Dear Mr. Bloom:

This is in response to your September 15, 2003 letter, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to orientation arrows. Specifically, you ask if orientation arrows on non-hazardous packages are prohibited, and if the display of orientation arrows necessarily indicates the presence of hazardous materials.

The answer is no. The arrows are a communication requirement that tells the handler of the package the correct orientation for transportation. In accordance with § 172.312, liquid hazardous materials in non-bulk packagings must be marked with package orientation markings that conform pictorially to ISO Standard 780-1985, on two opposite vertical sides of the package with the arrows pointing in the correct upright direction. Depicting a rectangular border around the arrows is optional. Arrows for purposes other than indicating proper package orientation may not be displayed on a package containing a liquid hazardous material. There is nothing in the regulations prohibiting the use of these arrows for other packagings. Therefore, they can be used in any manner for shipments of solids and non-hazardous materials.

I hope this satisfies your inquiry.

Sincerely,

Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



030238

172.312

Foster
§171.2 (f)(2)
§ 172.303
§ 172.312
Marking
03-0238



David L. Bloome
13000 Deerfield Parkway
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Alpharetta, GA 30004
678-566-9378

September 15, 2003

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
United States Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W. DHM-10
Washington, DC 20590-0001

RE: Request for Clarification
49 CFR 171.2(f)(2)
49 CFR 172.303
49 CFR 172.312

Dear Mr. Mazzullo:

The purpose of my letter is to request written confirmation of what we have been told orally by the DOT's Hazardous Materials Information Center Hotline, i.e., that Exide Technologies application of orientation arrows on non-hazardous packages is not prohibited, and that their display does not necessarily indicate the presence of hazardous materials.

Exide Technologies is the largest manufacturer of lead-acid, automotive-type batteries in the United States, and in the world. The application in question involves Exide Technologies packaging non-hazardous dry batteries in cartons also used for packaging DOT-regulated hazardous materials. The cartons used in this dual capacity are pre-printed with the proper orientation arrows as described in 49 CFR 172.312. When non-hazardous, dry batteries are shipped, no other markings or labels are added to the packaging. However, when DOT-regulated hazardous materials are packaged in these cartons, the additional required markings and labels are added to communicate the presence of DOT-regulated hazardous materials, i.e., batteries, wet, filled with acid, 8, UN2794.

As noted above, the critical section for present purposes is 49 CFR Section 171.2 (f) (2) which is stated as: (f) No person shall, by marking or otherwise, represent that --- (2) A hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel, if the hazardous material is not present. For reasons outlined below, it is Exide Technologies understanding that this paragraph does not preclude the application of the orientation marking prescribed in the HMR on packages containing only non-hazardous materials. We request your confirmation of this understanding.

Very truly yours,

David L. Bloome
Director, RSPA

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Section 172.312 of the HMR prescribes the conditions under which package orientation markings must be applied to non-bulk packages containing liquid hazardous materials, and also prescribes the pictorial illustration of the orientation marking. Paragraph (b) of the section specifically prohibits the display of arrows for purposes other than indicating package orientation on any package containing "a liquid hazardous material". Moreover, section 172.303, which addresses "Prohibited marking", prohibits only the application of a proper shipping name or identification number to a package unless the package contains the identified hazardous material or its residue. The section does not prohibit display of the prescribed package orientation markings on packages other than those for which it is required (i.e., certain non-bulk packages containing liquid hazardous materials). Thus, nowhere in the HMR is the display of the prescribed orientation marking prohibited on *any* package -- including those packages containing liquid hazardous materials for which the display is not specifically required, packages containing solid hazardous materials, or, indeed, packages containing non-hazardous materials.

Thank you for your consideration of our request. If we can provide anything further, or if you wish to discuss this matter further, please do not hesitate to contact me on (678) 566-9378, or at the address noted on the first page.

Very truly yours,



David M. Bloome
Manager - Environment, Health &
Safety