UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of:	)	Docket No. R9-2014-05
	)	
	)	Finding and Notice of Violation
Exide Technologies Vernon, California	)	
	)	
Proceeding Under Section 113(a), Clean Air Act, As Amended	)	

This Finding and Notice of Violation ("NOV") is issued to Exide Technologies for violations of the Clean Air Act ("CAA" or "Act") as amended, 42 U.S.C. §§ 7401-7671q, at its lead battery recycling facility located in Vernon, California (the "Facility"). The Facility is located within the jurisdiction of the South Coast Air Quality Management District ("SCAQMD" or "District"). Section 113(a)(1) of the Act requires the EPA Administrator to notify a person in violation of a state implementation plan. The authority to issue NOVs has been delegated to the Director of the Enforcement Division for EPA, Region IX.

GENERAL STATUTORY AND REGULATORY BACKGROUND

1. Section 110(a) of the Act requires that all states adopt state implementation plans ("SIPs") that provide for the implementation, maintenance and enforcement of primary and secondary air quality standards. 42 U.S.C. §7410(a).
2. The Facility is located within the jurisdiction of the South Coast Air Quality Management District ("SCAQMD" or "District").
3. A person's failure to comply with any approved regulatory provision of a SIP renders the person subject to enforcement under section 113 of the Act. 42 U.S.C. §7413(a)(1); 40 C.F.R. §52.23.

SCAQMD Rule 1420.1, as adopted November 5, 2010

4. In accordance with section 110 of the Act, EPA approved Rule 1420.1 ("Emission Standard for Lead from Large Lead-Acid Battery Recycling Facilities"), as adopted by the District on November 5, 2010, into SCAQMD's portion of the California SIP. 78 Fed. Reg. 5305 (Jan. 25, 2013).
5. Section 1420.1(b) states that the provisions of the rule apply to all persons who own or operate a lead-acid battery recycling facility that has processed more than 50,000 tons of lead a year in any calendar year prior to November 5, 2010, or annually thereafter.
6. Section 1420.1(d)(2) specifies that on and after January 1, 2012, the owner or operator of a large lead-acid battery recycling facility is subject to a requirement that prohibits emissions that contribute to ambient air concentrations that exceed $0.15\mu g/m^3$ averaged over any 30 consecutive days. Section 1420.1(b)(2) further specifies that ambient concentrations of lead shall be determined by monitors pursuant to Section 1420.1(j) or at any District-installed monitor.
7. Section 1420.1(j) requires the owner or operator of a large lead-acid battery recycling facility to conduct ambient air monitoring and sampling at a minimum of four sampling sites approved by the Executive Officer of the District. Section 1420.1(j) further specifies that the locations of these monitors shall be at or beyond the property line.

FINDINGS OF FACT

8. Exide Technologies is the owner and/or operator of the Facility, located at 2700 South Indiana Street in Vernon, California. The Facility is a secondary lead smelter that recycles lead batteries and other lead-bearing scrap materials.
9. Exide Technologies operates monitoring equipment to measure levels of lead in ambient air at various locations at or just beyond the Facility property line, including but not limited to: (i) the Railyard

monitor; (ii) the Southeast (SE) monitor; (iii) the Southwest (SW) monitor; (iv) the Northeast (NE) monitor; (v) the On-site North (OSN) monitor, and the (vi) MID monitor.

10. On or about September 9, 2013, emissions from the Facility exceeded the standard in Section 1420.1(d)(2) as measured at the NE monitor.
11. On or about September 18, 2013, emissions from the Facility exceeded the standard in Section 1420.1(d)(2) as measured at the OSN monitor.
12. On or about January 2 through January 3, 2014, emissions from the Facility exceeded the standard in Section 1420.1(d)(2) as measured at the OSN monitor.
13. On or about March 22 through April 19, 2014, emissions from the Facility exceeded the standard in Section 1420.1(d)(2) as measured at the NE monitor.

FINDING OF VIOLATION

Finding of Failure to Comply with Rule 1420.1

On the dates noted above, Exide Technologies violated Rule 1420.1 by allowing emissions in excess of 0.15 $\mu g/m^3$ averaged over 30 days as measured by monitors installed and operated pursuant to Section 1420.1(j).

NOTICE OF VIOLATION

Notice is given to Exide Technologies that the Administrator of the United States Environmental Protection Agency, by authority duly delegated to the undersigned, finds that Exide Technologies has violated section 110 of the Act, the California SIP, and SCAQMD Rule 1420.1, as set forth in the Finding of Violation.

ENFORCEMENT

Section 113(a)(1) of the Act provides that when any person has violated any requirement or prohibition of an applicable implementation plan or permit, EPA may:

- issue an order requiring compliance with the requirements or prohibition of such

implementation plan or permit, or
- issue an administrative penalty order pursuant to section 113(d) for civil administrative penalties of up to $37,500 per day of violation, or
- bring a civil action pursuant to section 113(b) for injunctive relief and/or civil penalties of not more than $37,500 per day for each violation.

Furthermore, if a person knowingly violates any requirements of an applicable implementation plan more than 30 days after notification of violation, section 113(c) provides for criminal penalties or imprisonment, or both.

Under section 306(a) of the Act, the regulations promulgated thereunder (2 C.F.R. Parts 180 and 1532), and Executive Order 11738, facilities to be used in federal contracts, grants, and loans must be in full compliance with the Act and all regulations promulgated pursuant to it. Violations of the Act may result in the facility being declared ineligible for participation in any federal contract, grant, or loan.

PENALTY ASSESSMENT CRITERIA

Section 113(e)(1) of the Act states that the Administrator or the court, as appropriate, shall, in determining the amount of any penalty to be assessed, take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

Section 113(e)(2) of the Act allows the Administrator or the court to assess a penalty for each day of violation. For the purposes of determining the number of days of violation, where the EPA makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of this NOV, the days of violation shall be presumed to include the date of this NOV

and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by the preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

OPPORTUNITY FOR CONFERENCE

Exide Technologies may, upon request, confer with EPA. The conference will enable Exide Technologies to present evidence bearing on the finding of violation, the nature of the violations, and any efforts it may have taken or proposes to take to achieve compliance. Exide Technologies has the right to be represented by counsel. A request for a conference with EPA must be made within ten (10) working days of receipt of this NOV. The request for a conference or other inquiries concerning the NOV should be made in writing to:

Kara Christenson
Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105
(415) 972-3881
christenson.kara@epa.gov

5/22/14
Date

for KJ
Kathleen H. Johnson
Director, Enforcement Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

MAY 2 2 2014

CERTIFIED MAIL # 7008 2810 0002 3066 4939
RETURN RECEIPT REQUESTED

IN REPLY: ENF-2-1
REFER TO: Docket No. R9-2014-05

Mr. Robert M. Caruso
Chief Executive Officer
Exide Technologies, Inc.
Building 200
13000 Deerfield Parkway
Milton, Georgia 30004

Re: Exide Technologies Finding and Notice of Violation

Dear Mr. Caruso:

Enclosed is a copy of a Finding and Notice of Violation ("NOV") issued pursuant to section 113(a)(1) of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (the "Act"), notifying you that the United States Environmental Protection Agency ("EPA"), Region IX, finds that Exide Technologies, Inc. ("Exide"), has violated certain provisions of the California State Implementation Plan at its lead battery recycling facility located in Vernon, California (the "Facility").

You should be aware that section 113(a)(1) of the Act authorizes EPA to issue an order requiring compliance with the requirements of the Act, issue an administrative penalty order, or commence a civil action seeking an injunction and/or a civil penalty. Furthermore, section 113(c) of the Act provides for criminal penalties in certain cases.

In addition, section 306 of the Act, 42 U.S.C. § 7606, the regulations promulgated thereunder (2 C.F.R. Part 180), and Executive Order 11738 provide that facilities to be utilized in federal contracts, grants, and loans must be in full compliance with the Act and all regulations promulgated pursuant to it. A violation of the Act may result in the Exide Facility being declared ineligible for participation in any federal contract, grant, or loan.

If you wish to discuss the enclosed NOV, you may request a conference with EPA within ten (10) working days of receipt of this NOV. The conference will afford Exide an opportunity to present information bearing on the finding of violation, the nature of the violations, and any efforts it may have taken or proposes to take to achieve compliance.

Printed on Recycled Paper

If you have any questions pertaining to this NOV, please contact Mark Sims of the Air & TRI Enforcement Office at (415) 972-3965, or have your attorney contact Kara Christenson, Office of Regional Counsel, at (415) 972-3881. Thank you for your cooperation in this matter.

Sincerely,

Kathleen H. Johnson
Director, Enforcement Division

Enclosure

cc: Mr. Barry Wallerstein (SCAQMD)
Mr. Jim Ryden (CARB)
Mr. John Hogarth (Exide)