UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 95105-3901

MAR 05 2015

OFFICE OF THE
REGIONAL ADMINISTRATOR

Mr. Olivier Theard
Sheppard Mullin Richter & Hampton LLP
333 South Hope Street, 43rd Floor
Los Angeles, CA 90071-1422

Re: 2nd NESHAP Performance Testing Extension Request for Exide Facility in Vernon, California

Dear Mr. Theard:

Region IX of the United States Environmental Protection Agency (USEPA) is in receipt of your letter dated January 5, 2015, on behalf of Exide Technologies (Exide) relating to a request for an additional extension of performance test deadlines under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) from Secondary Lead Smelting, 40 C.F.R. Part 63, Subpart X. Specifically, your letter requests, on behalf of Exide for its Vernon, California facility, additional performance testing extensions under 40 C.F.R. 63.7(a)(4), for the following: (i) from March 31, 2015, to August 25, 2015, to conduct performance testing to determine compliance with emissions standards for total hydrocarbons (THC) and dioxins and furans (D/F) as required by 40 C.F.R. 63.543(c); and (ii) from May 30, 2015, to October 23, 2015, (as set forth at 40 C.F.R. 63.9(h)(2)(ii)) to submit a notice of compliance status within 60 days of the completion of the performance test.

As set forth in your letter, Exide requests these additional extensions of time based upon the South Coast Air Quality Management District (District) December 5, 2014, issuance of a permit to construct for the Exide Facility Risk Reduction Projects, which Exide had estimated in its first extension request to have been issued in July 2014. Per your letter, pursuant to an Order of Abatement approved by the District Hearing Board, Exide has six months from the December 5, 2014, permit issuance date to complete the Risk Reduction Projects after which Exide reasonably expects 8-12 weeks to ensure representative facility operations to conduct the NESHAP performance tests (by August 25, 2015) and 60 days thereafter to certify compliance (by October 23, 2015).

EPA's consideration of an extension to a performance testing deadline on the grounds of force majeure pursuant to 40 C.F.R. 63.7(a)(4) requires consideration of the following criteria: (i) notification in writing as soon as practicable following the date the owner or operator first knew or should have known that performance would be delayed; and (ii) a written description of the force majeure event; a rationale explaining the delay and the force majeure event; a description of the measures taken to minimize the delay; and a proposed date to conduct the performance test.

Pursuant to 40 C.F.R. 63.7(a)(4), EPA Region IX extends the deadline set forth in 40 CFR 63.543(c) to conduct performance testing to determine compliance with THC and D/F emission standards until 90 days following completion of installation of the new wet scrubbing system, but no later than August 25, 2015. EPA Region IX also extends the deadline set forth in 40 CFR 63.9(h)(2)(ii) for submitting a notice of compliance status until 60 days from the date of completion of performance testing, but no later than October 23, 2015. EPA's decision to extend these deadlines is based on consideration of the current non-operational status of the Vernon facility, which precludes the ability to conduct a test under representative conditions; Exide's intention to install a second wet scrubbing system which is expected to reduce emissions of harmful air pollution; the issuance date of the District permit to construct for the Risk Reduction Projects, and the reasonableness of the timeframes proposed, as well as other factors set forth above.

EPA's decision to extend the deadlines has also taken into consideration the Order for Abatement issued by SCAQMD. The Order for Abatement sets forth a schedule for Exide to construct upgrades to the air pollution control system at the Vernon facility, including a deadline for completion of construction within 180 days of the issuance of the written permit to construct.

Notwithstanding the deadline extensions and other conditions of approval as described above, nothing in this action otherwise changes or modifies any other requirement or compliance obligation for the Exide Technologies Vernon facility imposed under the federal Clean Air Act.

If you have any questions, please contact Mark Sims, Air & TRI Enforcement Office, Enforcement Division, US EPA Region IX, at 415 972-3965.

Jared Blumenfeld

cc: Dr. Barry Wallerstein, SCAQMD
Mr. Mohsen Nazemi, SCAQMD
Mr. John Hogarth, Exide