

Via Email to jkoizumi@aqmd.gov and First Class Mail

October 29, 2013

James Koizumi
Planning, Rule Development and Area Sources
SCAQMD
21865 Copley Drive
Diamond Bar, CA 91765

Re: Proposed Amended Rule 1420.1

Dear Mr. Koizumi:

Thank you for the opportunity to comment on SCAQMD Proposed Amended Rule 1420.1 (PAR1420.1). This letter is submitted on behalf of Communities For A Better Environment and the Natural Resources Defense Council. In connection with these comments, we are aware of the pending DTSC administrative proceeding against Exide, Los Angeles County Superior Case No. BS 143369, the terms of the proposed settlement of that matter, the October 24, 2013 letter from SCAQMD to Exide rejecting Exide's proposed risk reduction plan, and the Order for Abatement proceeding now pending before the SCAQMD Hearing Board and set for hearing on December 14, 2013.

Introduction.

Exide has been poisoning the East Los Angeles community with lead and arsenic for decades. It needs to be shut down unless and until Exide proves that it can operate safely, and the Proposed Regulation should so provide. Our detailed comments are below.

Comments on the Proposed Regulation:

- PAR 1420.1 should prohibit any emissions of lead or arsenic from Exide until a cumulative impacts study has been performed to evaluate the toxic load that already affects the local community. If that load is significant, which we believe it is, Exide and Quemetco should not be allowed to add to it in any way.
- The recommendations in the October 24, 2013 letter from SCAQMD to Exide should all be implemented before Exide is allowed to emit any lead or arsenic.
- The staff report and proposed language of the rule make clear that the emissions limits in PAR 1420.1 are based on a "technology approach." The District must ensure that the

regulation first and foremost comes from a health-based approach that includes consideration of the toxics load from Exide, Quemetco and other sources from which the neighboring communities already suffer. The emissions limits should be not less than LAER.

- To the extent District continues to incorporate a technology-based standard or basis for PAR1420.1 emissions limits, it should expressly require use of Wet Electrostatic Precipitator (WESP) technology. Specifically, with regard to the above comment advising the District to require implementation of all recommendations made in its October 24, 2013 letter rejecting Exide's proposed risk reduction plan, PAR1420.1 should require WESP technology for control of arsenic emissions, for the reasons stated in the October 24, 2013 letter. This recommendation falls in line with those expressed by Communities For A Better Environment at the second working group meeting on September 18, 2013, and was, to an extent, reflected in the amendments made to PAR1420.1, at paras. (e)(2) and (f)(1), requiring a lead and separate arsenic control device at each point source and for the purpose of creating total enclosure controls. The District should strengthen the language in those sections of PAR1420.1 to stringently require the most health-protective negative pressure levels, and to further require continuous monitoring and reporting of those levels at every location in which air can escape. Such pressure and monitoring assurances should be made immediately, upon adoption of the rule.
- PAR1420.1 should be amended to prohibit operation solely with the current bag house, HEPA filtration, isolation door and blast furnace technology used by Exide, in accordance with the findings made in the staff report as well as the District's recommendations in its October 24, 2013 letter. Notwithstanding the January 1, 2015 deadline to achieve emission-level compliance with the rule's provisions, PAR1420.1's technology-based standards, including the incorporated recommendations relating to the rejection of the HRA, should prohibit Exide from operating with its existing technology and control devices.
- The District should ensure that any monitoring and sampling data collected as a part of the regulation are publicly accessible in real time and that Exide and Quemetco-related Notices of Violation are made public promptly.
- Monitoring and sampling should include the effects of aerial deposition of lead and arsenic in the neighboring community, as well as emissions into the air of those substances. Blood tests of community members, by themselves, are not sufficient for this purpose.
- All documents relating to the pending Order for Abatement proceeding should be made public on the internet promptly, to ensure full, informed, and meaningful community participation in the Order for Abatement hearing, now set to take place on December 14, 2013.
- The District should closely monitor Exide's compliance with the terms of the proposed stipulation and settlement agreement between DTSC and Exide, if and when those terms are approved by the Bankruptcy Court. Moreover, the District should make public any reports on Exide's compliance or non-compliance with the terms of the settlement.

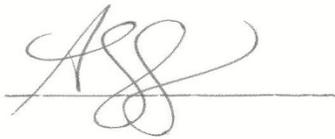
- It is well-known that lead exposure in children can lead to intellectual and behavioral deficits that cannot later be corrected. The Centers For Disease Control have stated that “[n]o safe blood lead level (BLL) in children has been identified.”¹ The District should re-assess whether, given the history and composition of the neighboring communities, there is any safe level for emissions of lead from Exide and Quemetco, especially for children.

Thank you for your consideration of this letter.

Yours truly,

A handwritten signature in black ink, appearing to read "David Pettit", written over a light gray rectangular background.

David Pettit
Senior Attorney
Natural Resources Defense Council

A handwritten signature in black ink, appearing to read "A. Yana Garcia", written over a horizontal line.

A. Yana Garcia
Staff Attorney
Communities For A Better Environment

¹ <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6213a3.htm>, accessed October 29, 2013.