INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
*We Protect Hoosiers and Our Environment.*

*Mitchell E. Daniels, Jr.*
**Governor**

*Thomas W. Easterly*
**Commissioner**

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

May 7, 2010

**NOTICE OF DECISION**

Please be advised that on May 7, 2010, the Commissioner of the Indiana Department of Environmental Management (IDEM) issued a Hazardous Waste Management Permit Renewal requested under Indiana Code 13-22 and Rule 329 IAC 3.1 to Exide Technologies (Exide) located in Muncie, Indiana, Delaware County. The Permit will allow Exide to continue to operate a hazardous waste container storage facility.

If you wish to challenge this decision, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a Petition for Administrative Review. If you seek to have the effectiveness of the permit stayed during the Administrative Review, you must also file a Petition for Stay. The Petition(s) must be submitted to the Office of Environmental Adjudication at the following address within fifteen days of your receipt of this notice:

Office of Environmental Adjudication
Government Center North, Room 501
100 North Senate Avenue
Indianapolis, Indiana 46204-2241

The Petition(s) must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision, or otherwise entitled to review by law. Identifying the permit, decision, or other order for which you seek review by permit number, name of the applicant, location, or date of this notice will expedite review of the petition. Additionally, IC 13-15-6-2 requires that your Petition include:

1. The name and address of the person making the request.

2. The interest of the person making the request.

3. Identification of any persons represented by the person making the request.

4. The reasons, with particularity, for the request.

5. The issues, with particularity, for the request.

6. Identification of the permit terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the Commissioner's action.

Pursuant to IC 4-21.5-3-1(f), any document serving as a petition for review or review and stay must be filed with the Office of Environmental Adjudication. Filing of such a document is complete on the earliest of the following dates:

1. The date on which the petition is delivered to the Office of Environmental Adjudication (OEA).

2. The date of the postmark on the envelope containing the petition, if the petition is mailed by United States mail; or

3. The date on which the petition is deposited with a private carrier, as shown by a receipt issued by the carrier, if the petition is sent by private carrier.

Pursuant to IC 4-21.5-3-3, the Office of Environmental Adjudication will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this decision if you submit a written request to the Office of Environmental Adjudication at the above address. If you do not provide a written request to the Office of Environmental Adjudication, you will no longer be notified of any proceedings pertaining to this decision.

For further information, please see the attachment. If you have any procedural or scheduling questions regarding your petition(s), you may contact OEA at 317/232-8591.

Copies of the Permit Conditions and the Notice of Decision may also be viewed on the IDEM web site at: *www.IN.gov/idem/5474.htm* and IDEM virtual file cabinet: http://www.in.gov/idem/

A Response to Comments has been prepared for comments received during the public comment period. The Response to Comments is enclosed for your information.

For further information regarding this notice, please call (800) 451-6027, press 0, and ask for Ms. Ruth Jean at extension 2-3398, or call 317/232-3398.

Sincerely,

Victor P. Windle

Victor P. Windle, Chief
Hazardous Waste Permit Section
Permits Branch
Office of Land Quality

RAJ/gjo
Enclosure

# What if you are not satisfied with this decision and you want to file an appeal?

**Who may file an appeal?**
The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a "Petition for Administrative Review" to request an "administrative hearing".

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved or adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be p to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Environmental Adjudication (OEA) was established by state law - see Indiana Code (IC) 4-21.5-7 - and is a separate state agency independent of IDEM. The jurisdiction of the OEA is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OEA, your appeal may be considered by an Environmental Law Judge.

**What is required of persons filing an appeal?**
Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (Or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).

The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a "Petition for Administrative Review" (appeal), you may wish to specifically request that the action be "stayed" (temporarily halted) because most appeals do not allow for an automatic "stay". If, after an evidentiary hearing, a "stay" is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not "stayed" the IDEM-approved activity will be allowed to continue during the appeal process.

*(See reverse side)*

**Where can you file an appeal?**
If you wish to file an appeal, you must do so in writing. There are no standard forms to fill out and submit, so you must state your case in a letter (called a petition for administrative review) to the Indiana Office of Environmental Adjudication (OEA). Do not send the original copy of your appeal request to IDEM. Instead, send or deliver your letter to:

**The Indiana Office of Environmental Adjudication**
**100 North Senate, Room N501E**
**Indianapolis, Indiana 46204**

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal (petition for administrative review) must be received by the Office of Environmental Adjudication in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:

1) Delivered in person to OEA by the close-of-business on the eighteenth day (If the 18th day falls on a day when the Office of Environmental Adjudication (OEA) is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OEA is open.), or
2) Given to a private carrier who will deliver it to the OEA on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
3) For those appeal requests sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
4) Faxed to the OEA at 317/233-9372 before the close-of-business of the 18th day, provided that the original signed "Petition for Administrative Review" is also sent, or delivered, to the OEA in a timely manner.

**What are the costs associated with filing an appeal?**
The OEA does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. However, OEA does charge a fifteen cent ($.15) per page fee for copies of any documents you may request. Another cost that could be associated with your appeal would be for attorney's fees. Although you have the option to act as your own attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

**What can you expect from the Office of Environmental Adjudication (OEA) after you file for an appeal?**
The OEA will provide you with notice of any prehearing conferences, preliminary hearings, hearings, "stays," or orders disposing of the review of this decision. In addition, you may contact the OEA by phone at 317/232-8591 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with the OEA other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OEA is not allowed to discuss a case without all sides being present. All parties to the proceeding are expected to appear at the initial prehearing conference.