

Appendix D

Approval of Revisions to Indiana's State Implementation Plan for Lead

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shut down the customer's ability to print PC Postage as described in the Domestic Mail Manual section 604.4.

■ 5. In § 501.18, revise paragraph (b)(2) and add paragraph (c)(6) to read as follows:

§ 501.18 Customer information and authorization.

* * * * *

(b)
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(2) Within five years preceding submission of the information, the customer violated any standard for the care or use of the Postage Evidencing System, including any unresolved identified postage discrepancies that resulted in revocation of that customer's authorization.

* * * * *

(c)
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(6) The customer has any unresolved postage discrepancies.

* * * * *

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2015-17533 Filed 7-16-15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2013-0193; FRL-9930-41-Region 5]

Approval of Air Quality Implementation Plans; Indiana; Lead Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted on March 14, 2013, and supplemented on November 17, 2014, by the Indiana Department of Environmental Management (IDEM) to revise the state implementation plan (SIP) for lead. The submittal updates Indiana's lead rule at Title 326 of the Indiana Administrative Code (IAC), Article 15. It also amends 326 IAC Article 20, to incorporate some of the provisions of EPA's National Emission Standard for Hazardous Air Pollutants (NESHAP) for secondary lead smelters. IDEM made the revisions to increase the stringency and clarity of Indiana's lead SIP rules.

DATES: This direct final rule will be effective September 15, 2015, unless EPA receives adverse comments by

August 17, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2013-0193, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *Email*: blakley.pamela@epa.gov.

3. *Fax*: (312) 692-2450.

4. *Mail*: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2013-0193. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be

able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background: Lead SIP and NESHAP Rules
- II. Discussion of State Submittal
- III. What action is EPA taking?
- IV. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Background: Lead SIP and NESHAP

Indiana's SIP rules for lead are contained in two separate parts of the State's regulations. The first is Article 15, which EPA approved on August 17, 1989 (See 54 FR 33894). This provision addresses lead-bearing emissions from processes and fugitive dust from several facilities in Indiana.

The second regulatory provision is 326 IAC 20-13, which EPA approved on January 15, 2008 (77 FR 2248). This section contains a partial incorporation by reference of EPA's June 13, 1997, NESHAP for secondary lead smelting at 40 CFR part 63, subpart X (62 FR 32209). This includes: 1) 326 IAC 20-13-1(c) [incorporation by reference of 40 CFR part 63, subpart X, NESHAP (June 13, 1997; 62 FR 32209), with exceptions]; 2) 326 IAC 20-13-2(a) [source-specific lead emission limits

and filter requirements for secondary lead smelter, Quemetco Incorporated (Quemetco)); and 3) 326 IAC 20–13–6 [compliance testing requirements].

On January 5, 2012 (77 FR 556), EPA published amendments to the NESHAP for secondary lead smelting. The final rule revised the standards for secondary lead smelters based on the residual risk and technology reviews required under section 112(f) of the Clean Air Act (CAA), 42 U.S.C. 7412(f). In addition to revising the emission limits for lead compounds, the amendments to the NESHAP included: Revisions to standards for fugitive emissions; addition of total hydrocarbon, dioxin, and furans emission limits for reverberatory and electric arc furnaces; modification and addition of testing and monitoring, recordkeeping and reporting requirements.

On March 14, 2013, and supplemented on November 17, 2014, IDEM submitted a request to revise the SIP to update its lead rule at 326 IAC 15. IDEM published several newspaper notices informing the public of the revisions to 326 IAC 15 and 326 IAC 20. A public hearing on these revisions was held on November 7, 2012. There were no comments received.¹

II. Discussion of State Submittal

Below is a discussion of Indiana's rules, including an identification of any significant changes from the previously approved SIP lead rules.

Rule 326 IAC 15, Lead

IDEM made several administrative revisions to Article 15 to clarify the language in the rule. In section 2 of this rule, IDEM removed obsolete rule language for sources no longer in operation.

In section 3 of this rule, "Control of fugitive lead dust," IDEM made minor revisions by removing unnecessary language. For instance, the language in this section of the rule instructs sources listed section 2 to submit their fugitive dust control program to "the department of environmental management, office of air management." IDEM deleted the words "of environmental management, office of air management" in the revised rule language to simply direct the sources to submit its fugitive dust control programs to "the department."

In section 4 of this rule, "Compliance," IDEM made a revision to correct the citation for the appropriate

source sampling procedures. Previously, the SIP the source sampling procedures were in 326 IAC 3–2. IDEM has relocated these to 326 IAC 3–6.

EPA finds these administrative changes approvable in Indiana's SIP.

Rule 326 IAC 20, Secondary Lead Smelting

Consistent with amendments to the NESHAP, Indiana added 326 IAC 20–13.1, which incorporates portions of this rule. More specifically, it contains standards for process and fugitive sources at secondary lead smelters, test methods, fugitive dust control, standard operating procedures for baghouses, and monitoring and recordkeeping requirements, which are covered by other portions of 326 IAC 20–13. When IDEM adopted rule 326 IAC 20–13.1, it did not include any exclusions to the rule that would exempt secondary lead smelters from complying with any operating and testing requirements consistent with the NESHAP. Thus, the secondary lead smelter rule at 326 IAC 20–13.1 provides clarity to the applicability, operating, and testing requirements for secondary lead smelters.

Second, the revisions to the NESHAP revised the lead emission limits that apply to process and process fugitive, and stacks venting fugitive dust emissions. The lead emission limit from process and process fugitive sources was revised from 2.0 milligrams of lead/dry standard cubic meter (mg/dscm) to 1.0 mg/dscm. The lead emission limit for stacks venting fugitive dust emissions was revised from 2.0 mg/dscm to 0.5 mg/dscm.

In the current SIP, EPA approved source-specific lead emission limits that apply to the secondary lead smelting facility owned and operated by Quemetco. Quemetco is located in Indianapolis, Indiana. For Quemetco, the lead emission limits that apply to a specific process and process fugitive dust, and stacks venting fugitive dust emissions are already as stringent as the NESHAP. IDEM has relocated these limits to 326 IAC 20–13.1–4.

In addition to lead emission limits for Quemetco, IDEM included source-specific lead emission limits for the Muncie (Delaware County), Indiana secondary lead smelting facility owned and operated by Exide Technologies (Exide) at 326 IAC 20–13.1–3. The rule contains lead emission limits for specific processes and process fugitive dust lead emissions at Exide. These emission limits are at levels as stringent as the NESHAP.

When revising the NESHAP for secondary lead smelting, EPA

established a facility-wide, flow weighted average, lead emissions limit from stacks of 0.20 mg/dscm. IDEM incorporated this emission limit into 326 IAC 20–13.1–5.

Indiana has requested that EPA approve all portions of 326 IAC 20–13.1 into the SIP, with the following exceptions:

(A.) All provisions related to dioxins, furans, total hydrocarbons, in the following provisions:

(1) 326 IAC 20–13.1–5(d); (2) 326 IAC 20–13.1–5(f); (3) 326 IAC 20–13.1–5(g); (4) 326 IAC 20–13.1–5(i); (5) 326 IAC 20–13.1–5(j); (6) 326 IAC 20–13.1–10(e); (7) 326 IAC 20–13.1–11(d); (8) 326 IAC 20–13.1–11(e); (9) 326 IAC 20–13.1–12(b); (10) 326 IAC 20–13.1–12(c); (11) 326 IAC 20–13.1–12(d); (12) 326 IAC 20–13.1–12(e); (13) 326 IAC 20–13.1–14(e)(2); and (14) 326 IAC 20–13.1–14(e)(3), related to total hydrocarbon.

(B.) certain "General Provisions" and notification provisions under the Federal NESHAP, identified in 326 IAC 20–13.1–1(d); 326 IAC 20–13.1–13(a),²

(C.) 326 IAC 20–13.1–15, concerning the affirmative defense to civil penalties for an exceedance of the emissions limit during malfunctions.³

IDEM decided that the changes to 326 IAC Article 20 required the removal of any duplicate or conflicting emission limits or other requirements that presently exist in 326 IAC 20–13 in the transition to the new requirements in 326 IAC 20–13.1, and thus, repealed 326 IAC 20–13.

EPA finds the lead emission limits for secondary lead smelters in 326 IAC 20–13.1 are more stringent than and will thus strengthen Indiana's current lead SIP. As such, they are approvable.

III. What action is EPA taking?

EPA is approving Indiana's March 14, 2013, SIP revision request, as supplemented on November 17, 2014, which addresses lead sources in the state. The submission consists of updates and clarifications to Indiana's lead SIP rule at 326 IAC Article 15. It also amends 326 IAC Article 20, to incorporate some of the provisions of EPA's NESHAP for secondary lead smelters at 326 IAC 20–13.1. EPA will take no action on the provision of this rule related to (1) dioxins, furans, and total hydrocarbons, (2) identified

² These provisions remain federally enforceable by EPA.

³ EPA has issued a finding that certain SIP revisions relating to startup, shutdown and malfunction (SSM) in 36 states are substantially inadequate to meet the Act's requirements. Included in this "SIP call" are "affirmative defense" provisions for SSM events. 80 FR 33480 (June 12, 2015).

¹ It should be noted that IDEM's March 14, 2013 submission contained a Final Attainment Demonstration and technical Support Document for the Muncie, Delaware County, Indiana Lead Nonattainment Area. Indiana withdrew that portion of the submission on November 17, 2014.

NESHAP requirements, and (3) the affirmative defense to civil penalties for an exceedance of the emissions limit during malfunctions. It should be noted that this action in no way affects the continued enforceability of the NESHAP at 40 CFR part 63, subpart X.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective September 15, 2015 without further notice unless we receive relevant adverse written comments by August 17, 2015. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective September 15, 2015.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations, 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Emissions reporting, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

Dated: July 2, 2015.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

- 2. Section 52.770, the table in paragraph (c) is amended by:
- a. Revising the entries under "Article 15. Lead Rules".
 - b. Revising the entries under "Article 20. Hazardous Air Pollutants".

The revisions read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA Approval date	Notes
*	*	*	*	*
Article 15. Lead Rules				
Rule 1. Lead Emission Limitations				
15-1-2	Source-specific provisions	3/1/2013	7/17/2015, [insert Federal Register citation].	
15-1-3	Control of fugitive lead dust.	3/1/2013	7/17/2015, [insert Federal Register citation].	
15-1-4	Compliance	3/1/2013	7/17/2015, [insert Federal Register citation].	
*	*	*	*	*
Article 20. Hazardous Air Pollutants				
Rule 10 Bulk Gasoline Distribution Facilities				
20-10-1	Applicability; incorporation by reference of federal standards.	11/14/1999	5/31/2002, 67 FR 38006.	
Rule 20-13.1 Secondary Lead Smelters				
20-13.1-1	Applicability	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (a)–(c), (e), and (f)
20-13.1-2	Definitions	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-3	Emission limitations; lead standards for Exide Technologies, Incorporated.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-4	Emission limitations; lead standards for Quemetco, Incorporated.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-5	Emission limitations and operating provisions.	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (a)–(c), (e), and (h)
20-13.1-6	Total enclosure requirements.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-7	Total enclosure monitoring requirements.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-8	Fugitive dust source requirements.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-9	Bag leak detection system requirements.	3/1/2013	7/17/2015, [insert Federal Register citation]	
20-13.1-10	Other requirements	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (a)–(d), (f) and (g)
20-13.1-11	Compliance testing	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (a)–(c), and (f)
20-13.1-12	Compliance testing methods.	3/1/2013	7/17/2015, [insert Federal Register citation]	Section (a)
20-13.1-13	Notification requirements	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (b)–(d)
20-13.1-14	Record keeping and reporting requirements.	3/1/2013	7/17/2015, [insert Federal Register citation]	Sections (a)–(d), (e)(1), and (e)(4)–(e)(14)
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[FR Doc. 2015-17474 Filed 7-16-15; 8:45 am]

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Appendix E

Section 110(a)(1) and (2) Infrastructure SIP

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INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels Jr.
Governor

Thomas W. Easterly
Commissioner

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December 12, 2011

Susan Hedman
Regional Administrator
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: Indiana Infrastructure (Sections 110 (a)(1)
and (a)(2)) State Implementation Plan Submittal

Dear Ms. Hedman:

I am writing to confirm that the State of Indiana continues to retain the resources necessary to evaluate ambient air quality, develop plans to attain new and existing ambient air quality standards, run a complete new source review program, and effectively enforce all applicable requirements of Section 110 of the Clean Air Act (CAA). Specifically, the Indiana Department of Environmental Management (IDEM) can implement and satisfactorily complete the Section 110 requirements listed in the attached document. IDEM satisfies these requirements for the current and any future air quality standards, including the 2008 Lead National Ambient Air Quality Standard (NAAQS) and the 2008 Ozone NAAQS.

I believe that IDEM meets or exceeds all of the necessary infrastructure needs, enabling us to continue to satisfy these requirements of the Clean Air Act. If you have any questions feel free to contact Mr. Scott Deloney, Chief, Air Programs Branch at (317) 233-5694.

Sincerely,

Keith Baugues
Assistant Commissioner
Office of Air Quality

KB/rk

Ms. Susan Hedman
Page 2

cc: Steve Rosenthal
Scott Deloney
Christine Pedersen
SIP file

Attachments: Indiana Infrastructure SIP Submittal; Section 110(a)(1) and (a)(2)
Elements

**Indiana Infrastructure (Sections 110(a)(1) and (a)(2)) State Implementation Plan
Submittal; 2008 Lead NAAQS and 2008 Ozone NAAQS**

December 2011

Indiana's Infrastructure State Implementation Plan (SIP) submittal was developed in consultation with U.S. EPA Region 5, and in accordance with 40 CFR 51, Appendix V, "Criteria for Determining the Completeness of Plan Submissions." The SIP elements listed below are required under Section 110(a)(2). Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists the basic or "infrastructure" elements that all SIPs must contain. Following each Section 110(a)(2) element is IDEM's discussion of the department's ability to fulfill the requirement.

Indiana Infrastructure SIP Submittal: Section 110(a)(2) Elements

Section 110(a)(2)(A)-Emission Limits and Other Control Measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, as well as schedules and timetables for compliance.

IDEM continues to update and implement needed revisions to Indiana's SIP, as necessary to meet the NAAQS. The authority to adopt emission standards and compliance schedules is found at Indiana Code (IC) 13-14-8, IC 13-17-3-4, IC 13-17-3-11, and IC 13-17-3-14.

In order to ensure the attainment and maintenance of the 2008 Lead NAAQS, IDEM establishes limitations on lead emissions from specific stationary sources in Indiana in accordance with the rules at 326 IAC 15 and 326 IAC 20-13.

U.S. EPA has designated a small portion of Delaware County in east central Indiana as nonattainment for the 2008 Lead NAAQS (75 FR 71033). Lead emissions in this area are generated primarily from a single source. As of October 20, 2009, this source had entered into an agreed order with IDEM to implement more stringent control measures for fugitive lead emissions. This source also agreed to upgrade other prevention and control measures.

IDEM sets standards for the owners or operators of permitted facilities during startup, shutdown, and malfunction events in accordance with the rules at 326 IAC 1-6, 326 IAC 2-5.1, and 326 IAC 2-6.1.

Section 110(a)(2)(B)-Ambient Air Quality Monitoring/Data System: Section 110(a)(2)(B) requires SIPs to include provisions to provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to U.S. EPA.

In October 2006, U.S. EPA issued final regulations concerning state and local agency ambient air monitoring networks. These regulations require states to submit an annual monitoring network review to U.S. EPA. This network plan is required to provide the framework for establishment and maintenance of an air quality surveillance system and to list any changes that are proposed to take place to the current network during the 2011 season.

In accordance with its SIP, IDEM operates an ambient air monitoring network. The data is used to determine compliance with U.S. EPA's NAAQS. Indiana's 2011 Ambient Air Monitoring Annual Network Plan documents the framework for establishment and maintenance of Indiana's air quality surveillance system and lists any changes that are proposed to take place to the current network during 2011. U.S. EPA approved Indiana's 2011 Ambient Air Monitoring Annual Network Plan on October 29, 2010.

Section 110(a)(2)(C)-Programs for Enforcement, Prevention of Significant Deterioration (PSD), and New Source Review (NSR): Section 110(a)(2)(C) requires SIPs to include a program to provide for the enforcement of emission limits and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that the NAAQS are achieved, including a permit program.

IDEM maintains an enforcement program to ensure compliance with SIP requirements. IC 13-14-1-12 provides the Commissioner with the authority to enforce rules "consistent with the purposes of the air pollution control laws." The Commissioner also has the authority, under IC 13-14-2-7 and IC 13-17-3-3, to assess civil penalties and obtain compliance with any applicable rule a board has adopted in order to enforce air pollution control laws. Additionally, IC 13-14-10-2 allows for an emergency restraining order that will prevent "any person causing or contributing to the alleged pollution to stop the. . . introduction of contaminants causing or contributing to the pollution."

IDEM implements its PSD permit program and ensures that the construction and modification of major stationary sources do not cause or contribute to a violation of the lead NAAQS in accordance with the rules found at 326 IAC 2-2.

IDEM intends to codify NO_x as a precursor for ozone in accordance with U.S. EPA's Phase 2 Implementation Rule (73 FR 71612), found at LSA Document #11-251.

IDEM ensures that new or modified sources will apply the Best Available Control Technology (BACT) to reduce lead emissions in accordance with the rules found at 326 IAC 2-2-3.

IDEM has adopted U.S. EPA's Greenhouse Gas (GHG) Tailoring Rule at 326 IAC 2-2. U.S. EPA approved Indiana's GHG PSD rules in the Indiana SIP on September 28, 2011 (76 FR 59899).

Section 110(a)(2)(D)-Interstate Transport Provisions: Section 110(a)(2)(D) requires SIPs to include provisions prohibiting any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with

respect to any national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan for any other state to prevent significant deterioration of air quality or to protect visibility.

To satisfy the requirements of Section 110(a)(2)(D)(i)(1), IDEM is in the process of promulgating rules that implement the Cross-State Air Pollution Rule. As of July 2011, U.S. EPA has promulgated Federal Implementation Plans (FIPs) for the state of Indiana that address the requirements of Section 110(a)(2)(D) with respect to the 1997 Ozone NAAQS, 1997 PM_{2.5} NAAQS, and 2006 PM_{2.5} NAAQS.

U.S. EPA has designated a small portion of Delaware County in east central Indiana as nonattainment for the 2008 Lead NAAQS (75 FR 71033). This area is approximately 30 miles from the Indiana-Ohio state line. Due to its distance from the Indiana-Ohio state line and the physical characteristics of lead emissions, it is not anticipated that lead emissions from this area will contribute significantly to nonattainment or interfere with maintenance in Ohio. No other lead emission source in Indiana exceeds the emission threshold set in U.S. EPA's guidance for this submittal, and these sources are not anticipated to contribute to nonattainment or interfere with maintenance in the bordering states.

In order to ensure the attainment and maintenance of the 2008 Lead NAAQS, IDEM has limitations on lead emissions from specific stationary sources in Indiana in its rules at 326 IAC 15 and 326 IAC 20-13.

Indiana's SIP-approved PSD rules are found at 326 IAC 2-2, and it is IDEM's intention that these rules satisfy the requirements of Section 110(a)(2)(C), as well as the applicable requirements of Section 110(a)(2)(D)(i)(2).

Indiana is subject to the regional haze program which addresses visibility-impairing pollutants.

Section 110(a)(2)(E)-Adequate Resources: Section 110(a)(2)(E) requires SIPs to provide necessary assurances that the state will have adequate personnel, funding, and legal authority under state law to carry out each implementation plan, and to provide necessary assurances that the state retains responsibility for ensuring adequate implementation of the SIP where the state relies on a local or regional government for implementation of any SIP provision.

IDEM continues to update and implement needed revisions to Indiana's SIP, as necessary to meet the NAAQS. The authority to adopt emission standards and compliance schedules is found at IC 13-14-8, IC 13-17-3-4, IC 13-17-3-11, and IC 13-17-3-14.

In order to ensure the attainment and maintenance of the 2008 Lead NAAQS, IDEM has limitations on lead emissions from specific stationary sources in Indiana in its rules at 326 IAC 15 and 326 IAC 20-13.

IDEM's biennial budget and the Performance Partnership Grant (PPG) agreement document funding and personnel plans for IDEM. As of 2009, IDEM no longer relies on local or regional governments for implementation of SIP provisions.

IC 13-17-2-4 and IC 13-17-2-5 contain language similar to the requirements of Section 128(a)(1) and (2). Members of Indiana's Air Pollution Control Board represent varying public interests. These members do not derive a significant portion of their respective incomes from persons subject to permits or enforcement orders under the CAA. Lastly, members of Indiana's Air Pollution Control Board are required to fully disclose any potential conflicts of interest relating to permits or enforcement orders under the CAA.

Section 110(a)(2)(F)-Stationary Source Monitoring System: Section 110(a)(2)(F) provides that SIPs are to require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from stationary sources. Section 110(a)(2)(F) also provides that SIPs are to require periodic reports on the nature and amounts of emissions and emissions-related data from the stationary source, and correlation of the reports by the state agency with any emission limitations or standards established; the reports shall be available at reasonable times for public inspection.

Indiana's rules for monitoring requirements contained in 326 IAC 3 include rules that specify the continuous monitoring of emissions, minimum performance and operating specifications, quality assurance requirements, record keeping requirements, source sampling procedures, and fuel sampling and analysis procedures. Additional emission reporting requirements are found in 326 IAC 2-6. Emission reports are available upon request by U.S. EPA or other interested parties.

Section 110(a)(2)(G)-Emergency Episodes: Section 110(a)(2)(G) requires SIPs to provide authority to address activities causing imminent and substantial endangerment to public health, welfare, or the environment, and to provide for adequate contingency plans to implement the emergency episode provisions.

Indiana's rule at 326 IAC 1-5 establishes air pollution episode levels based on concentrations of criteria pollutants. The rule requires that emergency reduction plans (ERPs) be submitted to the Commissioner by major air pollution sources. The ERPs shall state those actions that will be taken when each episode level is declared, to reduce or eliminate emissions of the appropriate air pollutants.

Under IC 13-17-4, Indiana also has the ability to declare an air pollution emergency and order all persons causing or contributing to the conditions warranting the air pollution emergency to immediately reduce or discontinue the emission of air contaminants.

Section 110(a)(2)(H)-Future SIP Revisions: Section 110(a)(2)(H) requires SIPs to provide for the revision of the plan from time to time as may be necessary to take account of revisions of a national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining the standard, and whenever U.S. EPA finds on the basis of information that the plan is substantially inadequate to attain the NAAQS which it implements.

IDEM continues to update and implement needed revisions to Indiana's SIP as necessary to meet the NAAQS. Authority to adopt emissions standards and compliance schedules is found at IC 13-14-8, IC 13-17-3-4, IC 13-17-3-11, and IC 13-17-3-14.

Section 110(a)(2)(J)-Consultation with Government Officials, Public Notification, PSD, and Visibility Protection: Section 110(a)(2)(J) requires SIPs to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements, States to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances, and SIPs to meet applicable requirements of Part C of the CAA related to PSD and visibility protection.

IDEM actively participates in the regional planning efforts that include state rule developers, representatives from the Federal Land Managers and other affected stakeholders. IDEM monitors air quality daily and, when necessary, reports the daily air quality index to the interested public and media. IDEM participates and submits information to U.S. EPA's AIRNOW program. Additionally, IDEM maintains SmogWatch which is an informational tool created by IDEM to share air quality forecasts each day. SmogWatch provides daily information about ground-level ozone, particulate matter concentration levels, health information, and monitoring data for seven regions in Indiana. Indiana's SIP-approved regional haze/Best Available Retrofit Technology (BART) rules are found in 326 IAC 26. Lastly, Indiana's SIP-approved PSD rules are found in 326 IAC 2-2.

Section 110(a)(2)(K)-Air Quality Modeling/Data: Section 110(a)(2)(K) requires SIPs to provide for the performance of air quality modeling that U.S. EPA may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which U.S. EPA has established a NAAQS, and, upon request, the submission of data related to the air quality modeling to U.S. EPA.

IDEM reviews the potential impact of major and some minor new sources. Indiana's rules regarding air quality monitoring modeling are contained in 326

IAC 2-2-4, 326 IAC 2-2-5, 326 IAC 2-2-6, and 326 IAC 2-2-7. Modeling data are available upon request by U.S. EPA or other interested parties.

Section 110(a)(2)(L)-Permitting Fees: Sections 110(a)(2)(L) requires SIPs to require the owner or operator of each major stationary source to pay to the permitting authority a fee sufficient to cover the reasonable costs of reviewing and acting upon any application for a permit, and if the owner or operator received a permit for a source, the reasonable costs of implementing and enforcing the terms and conditions of any permit, until the fee requirement is superseded with respect to the sources by U.S. EPA's approval of a fee program under Title V of the Clean Air Act.

IDEM continues to implement the approved Title V program, including requiring major sources to pay permit fees. The authority to establish Title V permit fees are found at IC 13-17-8. The fees for Title V are at 326 IAC 2-7-19. All fees that may apply to Title V sources are found at 326 IAC 2-1.1-7, which was amended in LSA #07-286, adopted on August 3, 2011 and effective December 2011.

Section 110(a)(2)(M)-Consultation/Participation by Affected Local Entities: Section 110(a)(2)(M) requires SIPs to provide for consultation and participation by local political subdivisions affected by the SIP.

IDEM rulemaking procedures at IC 13-14-9 allow for public participation in the SIP development process. IDEM also ensures that the requirements of 40 CFR 51.102 are satisfied during the SIP development process.

Appendix F

**Exide Technologies Consent Decree: Civil
Action No. 15-cv-433**

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA and the
STATE OF INDIANA

Plaintiffs,

v.

EXIDE TECHNOLOGIES
(d/b/a EXIDE TECHNOLOGIES, INC.),

Defendant.

Civil Action No. 15-433

CONSENT DECREE

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CONSENT DECREE

Plaintiffs, the United States of America (the “United States”), on behalf of the United States Environmental Protection Agency (“EPA”), and the State of Indiana (the “State”), on behalf of the Indiana Department of Environmental Management (“IDEM”), have filed a complaint in this action concurrently with this Consent Decree, alleging that Defendant Exide Technologies (d/b/a Exide Technologies, Inc.) (“Defendant” or “Exide”) violated certain federal and state legal requirements applicable to its battery recycling and secondary lead smelting facility in Muncie, Indiana (the “Facility”).

The Complaint against Defendant alleges that Exide has operated the Facility in violation of: (1) the Clean Air Act, 42 U.S.C. §§ 7401-7671q, certain implementing regulations promulgated under the Clean Air Act, including the Clean Air Act National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting, 40 C.F.R. Part 63, Subpart X, and certain requirements relating to permits issued under Title V of the Clean Air Act; and (2) corresponding requirements under Indiana state law, including the regulations codified in Title 326 of the Indiana Administrative Code.

On June 10, 2013, Exide filed a petition for relief under Chapter 11 of the Bankruptcy Code, which commenced proceedings in the U.S. Bankruptcy Court for the District of Delaware (the Bankruptcy Court”) in the case captioned *In re Exide Technologies*, No. 13-11482 (Bankr. D. Del.) (the “Exide Bankruptcy Case”).

EPA identified alleged Clean Air Act violations at Exide’s Facility in two violation notices: (1) a September 16, 2013, Notice of Violation and Finding of Violation; and (2) an April 17, 2014, Finding of Violation. Those two violation notices are referred to herein collectively as the “EPA Violation Notices.” The EPA Violation Notices alleged violations occurring before and after the commencement of the Exide Bankruptcy Case.

As specified below, Exide’s entry into this Consent Decree is conditioned on its receipt of Bankruptcy Court approval of the settlement pursuant to Bank. R. 9019. The settlement also will be subject to approval by this Court after a public comment period afforded by the U.S. Department of Justice, as provided below.

Defendant does not admit any liability to the United States or the State arising out of the transactions or occurrences alleged in the Complaint or in the EPA Violation Notices.

The Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section I, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b). Pursuant to 28 U.S.C. § 1367, the Court has supplemental jurisdictions over the state law claims asserted by the State. The Court also has jurisdiction over the Parties. Venue lies in this District pursuant to 42 U.S.C. § 7413(b) and 28 U.S.C. §§ 1391(b) and (c) and 1395(a), because the violations alleged in the Complaint are alleged to have occurred in, and Defendant conducts business in, this judicial district. For purposes of this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction over this Decree and any such action and over Defendant and consents to venue in this judicial district.

2. For purposes of this Consent Decree, Defendant agrees that the Complaint states claims upon which relief may be granted pursuant to Clean Air Act Section 113(b), 42 U.S.C. § 7413(b).

II. APPLICABILITY

3. The obligations of this Consent Decree apply to and are binding upon the United States and the State, and upon Defendant and any successors, assigns, or other entities or persons otherwise bound by law.

4. No transfer of ownership or operation of the Facility, whether in compliance with the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure that the terms of the Decree are implemented, unless the transferee and the Parties to this Consent Decree enter into an agreed modification to this Consent Decree stipulating that: (1) the transferee agrees to undertake the obligations required by this Decree and to be substituted for the Defendant as a Party under the Decree and thus be bound by the terms thereof, and (2) the United States and the State consent to relieve Defendant of its obligations. The United States may refuse to approve the substitution of the transferee for Defendant if they determine that the proposed transferee does not possess the requisite technical abilities or financial means to assume the Consent Decree obligations. At least 20 Days prior to such transfer, Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall simultaneously provide written notice of the prospective transfer, together with a copy of the proposed written agreement, to United States and the State in accordance with Section XIII (Notices). Any attempt to transfer ownership or operation of the Facility without complying with this Paragraph constitutes a violation of this Decree.

5. Defendant shall provide a copy of this Consent Decree to all officers, employees, and agents whose duties might reasonably include compliance with any provision of this Decree, as well as to any contractor retained to perform work required under this Consent Decree. Defendant shall condition any such contract upon performance of the work in conformity with the terms of this Consent Decree.

6. In any action to enforce this Consent Decree, Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

III. DEFINITIONS

7. Terms used in this Consent Decree that are defined in the Act or in regulations promulgated pursuant to the Clean Air Act shall have the meanings assigned to them in the Act or such regulations, unless otherwise provided in this Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

“Complaint” shall mean the complaint filed by the United States and the State in this action.

“Consent Decree” or “Decree” shall mean this Decree.

“Date of Lodging” means the day on which this Consent Decree is lodged with this Court as a proposed settlement, before a public comment period and before this Court’s consideration of the Consent Decree.

“Day” shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

“Defendant” or “Exide” shall mean Exide Technologies, doing business in Indiana as Exide Technologies, Inc.

“Effective Date” shall have the definition provided in Section XIV.

“EPA” shall mean the United States Environmental Protection Agency and any of its successor departments or agencies.

“EPA Violation Notices” shall mean: (1) the September 16, 2013, Notice of Violation and Finding of Violation attached as Appendix A to this Consent Decree; and (2) the April 17, 2014, Finding of Violation attached as Appendix B to this Consent Decree.

“Facility” shall mean Defendant’s battery recycling and secondary lead smelting facility located at 2601 W. Mount Pleasant Boulevard in Muncie, Indiana.

“IDEM” shall mean the Indiana Department of Environmental Management and any of its successor departments or agencies.

“Main Building” shall mean the approximately 600 foot long by 160 foot wide building that contains the Facility’s refinery, ingot storage room, furnace room, raw material storage room (bin room), metallics room, and battery breaker room.

“Paragraph” shall mean a portion of this Decree identified by an arabic numeral.

“Parties” shall mean the United States, the State, and Defendant.

“Section” shall mean a portion of this Decree identified by a roman numeral.

“Secondary Lead NESHAP” shall mean the National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting, 40 C.F.R. Part 63, Subpart X as well as all relevant General Provisions in 40 C.F.R. Part 63, Subpart A.

“State” shall mean the State of Indiana.

“United States” shall mean the United States of America, acting on behalf of EPA.

IV. CIVIL PENALTY

8. Civil Penalties Payable to the United States

- a. Within 30 Days after the Effective Date, Defendant shall pay to the United States the sum of \$82,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.
- b. Within 30 Days after the effective date of an order approving a Plan of Reorganization in the Exide Bankruptcy Case, Defendant shall pay to the United States the additional sum of \$164,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging
- c. In addition to the amounts payable under Subparagraphs 8.a and 8.b, the United States on behalf of EPA shall have an allowed claim of \$164,000 for alleged pre-petition Clean Air Act violations at the Muncie Facility (the “Allowed EPA Muncie Claim”), to be paid as an allowed general unsecured claim under any approved Plan of Reorganization in the Exide Bankruptcy Case.

9. Defendant shall pay the civil penalty due to the United States by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice account, in accordance with instructions provided to Defendant by the Financial Litigation Unit (“FLU”) of the United States Attorney’s Office for the Southern District of Indiana after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System (“CDCS”) number, which Defendant shall use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to:

Robert Saurer, Plant Manager
Exide Technologies
2601 West Mount Pleasant Blvd.
P.O. Box 2098
Muncie, IN 47302
E-Mail: Robert.Saurer@na.exide.com
Phone: 765-747-9980 ext. 120

on behalf of Defendant. Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States in accordance with Section XIII (Notices).

At the time of payment, Defendant shall send notice that payment has been made: (a) to EPA via email at acctsreceivable.cinwd@epa.gov or via regular mail at EPA Cincinnati Finance Office, 26 Martin Luther King Drive, Cincinnati, Ohio 45268; and (b) to the United States via email or regular mail in accordance with Section XIII. Such notice shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States and the State of Indiana v. Exide Technologies* and shall reference the civil action number, CDCS Number and DOJ case number 90-5-2-1-11003.

10. Civil Penalties Payable to the State.

- a. Within 30 Days after the Effective Date, Defendant shall pay to the State the sum of \$82,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.
- b. Within 30 Days after the effective date of an order approving a Plan of Reorganization in the Exide Bankruptcy Case, Defendant shall pay to the State the additional sum of \$164,000 as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the Court, at the rate specified in 28 U.S.C. § 1961 as of the Date of Lodging.
- c. In addition to the amounts payable under Subparagraphs 10.a and 10.b, the State on behalf of IDEM shall have an allowed claim of \$164,000 for alleged pre-petition Clean Air Act violations at the Muncie Facility (the "Allowed IDEM Muncie Claim"), to be paid as an allowed general unsecured claim under any approved Plan of Reorganization in the Exide Bankruptcy Case.

11. Defendant shall pay the civil penalty due to the State by certified check or checks or cashier's checks made payable to "Environmental Management Special Fund" referencing the name and address of the party making payment, and the civil action number. Defendant shall send the check(s) to:

Indiana Department of Environmental Management
Office of Legal Counsel
IGCN, Rm. N1307
100 North Senate Avenue
Indianapolis, IN 46204

12. The amounts payable under this Section IV in Subparagraphs 8.a, 8.b, 10.a, and 10.b shall be allowed and paid in accordance with those provisions as allowed administrative expense claims in the Exide Bankruptcy pursuant to 11 U.S.C. § 503. The Allowed EPA Muncie Claim (under Subparagraph 8.c) and the Allowed IDEM Muncie Claim (under Subparagraph

10.c) shall receive the same treatment under the Plan of Reorganization, without discrimination, as all other allowed unsecured claims, with all attendant rights provided by the Bankruptcy Code and other applicable law, and shall not be entitled to any priority in distribution over other allowed unsecured claims. In no event shall the Allowed EPA Muncie Claim or the Allowed IDEM Muncie Claim be subordinated to any other allowed unsecured claim pursuant to any provision of the Bankruptcy Code or other applicable law that authorizes or provides for subordination of allowed claims, including, without limitation, Sections 105, 510, and 726(a)(4) of the Bankruptcy Code. The Parties stipulate and agree that the United States and the State shall not be required to file proofs of claim or administrative expense applications in the Exide Bankruptcy Case for the claims that would be allowed and paid under Paragraphs 8 and 10 of this Consent Decree. The United States and the State shall be relieved of any such filing obligation notwithstanding any bar date or deadline set in the Exide Bankruptcy Case, and whether or not this Consent Decree is entered by the district court before any such bar date or deadline. In addition, the Confirmation Order in the Exide Bankruptcy Case shall provide that nothing in the Confirmation Order or Plan of Reorganization shall impair or adversely affect the Defendant's obligations under this Consent Decree; the obligations shall survive confirmation and be fully enforceable against the reorganized debtor, which shall comply with such obligations.

13. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section VII (Stipulated Penalties) in calculating its federal or State or local income tax. The costs of tasks which are not identified expressly in this Consent Decree as penalties and payable to the Plaintiffs shall not be considered penalties subject to this provision

V. COMPLIANCE REQUIREMENTS

A. Main Building Total Enclosure Requirements and Ventilation Improvements

14. Exide shall ensure that the Facility's Main Building serves as a total enclosure that is maintained at negative pressure at all times and is vented to control devices designed to capture lead particulate, assuring compliance with the requirements imposed by the Secondary Lead NESHAP, including 40 C.F.R. § 63.544. Among other requirements, Exide shall: (a) ventilate the total enclosure continuously to ensure negative pressure readings of at least 0.013 millimeters of mercury (0.007 inches of water); and (b) maintain an inward flow of air through all natural draft openings as required by 40 C.F.R. § 63.544.

15. Exide currently ventilates the Main Building through multiple baghouses to control particulate emissions, including the Ventilation Baghouse, the Process Baghouse, the Rotary Dryer Baghouse, the Refinery Baghouse No.1, Bin Room Baghouse No. 1, and Bin Room Baghouse No. 2.

a. Bin Room Baghouse No. 2. Exide recently installed and began operating Bin Room Baghouse No. 2 to enhance the capture and control of emissions from the Main Building, including potential lead emissions from slag crushing equipment and material handling operations in and near the bin room. After the Date of Lodging, Exide shall continue to operate both Bin Room Baghouse No. 1 and Bin Room Baghouse No. 2 at all times that slag crushing is in operation or lead-containing material is being handled

in or near the bin room.

b. Ventilation Assessment.

- (1) Within 60 days after the Effective Date, Exide shall submit a written Ventilation Testing Plan for EPA review and approval under Paragraph 29. The Plan shall include a protocol and schedule for testing the ability of the Main Building's existing baghouse ventilation systems to meet all applicable negative pressure requirements under the Secondary Lead NESHAP (the "Ventilation Testing Plan"). The Plan shall provide for independent testing of the ventilation systems by a consultant specified by Exide. The objective shall be to generate data demonstrating the existing system's ability to produce the required continuous negative pressure required by the Secondary Lead NESHAP under any reasonably anticipated operating scenario when any units subject to Secondary Lead NESHAP requirements are in operation.
- (2) Exide shall implement the EPA-approved Ventilation Testing Plan in accordance with the requirements set forth in the approved Plan. EPA and the State shall have the right to be present for any testing conducted pursuant to the Plan. Within 60 Days after the Plan has been implemented, Exide shall submit a Ventilation Testing Final Report to EPA and IDEM in accordance with Section XIII (Notices).
- (3) If Exide determines that the existing ventilation system lacks the ability to produce the required continuous negative pressure required by the Secondary Lead NESHAP, then Exide shall submit a written Corrective Measures Plan for EPA review and approval under Paragraph 29 within 45 Days after Exide's submission of the Ventilation Testing Final Report. If Exide has not submitted a Corrective Measures Plan within 45 days after Exide's submission of the Ventilation Testing Final Report, and , if EPA determines that the existing ventilation system lacks the ability to produce the required continuous negative pressure required by the Secondary Lead NESHAP, then EPA may issue a written request that Exide submit a written Corrective Measures Plan for EPA review and approval under Paragraph 29 within 45 Days after Exide's receipt of EPA's written request. Any such EPA request shall summarize the data and conditions justifying the request. EPA will consult with Exide in advance before making any EPA request for a Corrective Measures Plan, and the parties shall meet and negotiate in good faith to attempt to reach agreement on the need for additional testing or corrective measures. In any Corrective

Measures Plan required under this Subparagraph, Exide shall describe and justify the proposed corrective measures and the proposed schedule for implementing the corrective measures. Exide shall implement any Corrective Measures Plan as specified by Subparagraph 17.d.

B. Negative Pressure Monitoring, Reporting, and Corrective Measures

16. Exide currently uses a digital differential pressure monitoring system for the Main Building that measures differential pressure at four locations, including one leeward wall monitor, one windward wall monitor, one midpoint monitor on an exterior wall connecting the leeward wall and windward wall, and one additional wall monitor located in the Main Building's breaker room.

17. From the Date of Lodging until termination of this Consent Decree pursuant to Section XVII, Exide shall use a digital differential pressure monitoring system with wall monitors at all four above-described locations to continuously monitor the Main Building total enclosure in accordance with the Secondary Lead NESHAP, including 40 C.F.R. § 63.548(k). Exide shall maintain all records required by 40 C.F.R. §§ 63.550(c)(6) and 63.550(c)(7) for the monitors at all four above-described locations.

a. If the differential pressure monitoring system readings taken at any of the four above-described locations indicate positive pressure or negative pressure of less than 0.013 millimeters of mercury (0.007 inches of water) on a 15-minute block average basis (referred to here as a "Pressure Incident"), then Exide shall:

- (1) take immediate action to investigate the Pressure Incident (and any related set of Pressure Incidents that occur close in time);
- (2) use best efforts to identify the cause of the Pressure Incident(s) and corrective measures that can be taken to address the cause of the Incident(s) and avoid similar Incidents;
- (3) implement any minor corrective measures that can be taken immediately (or document the fact that no corrective measures were required);
- (4) identify any major corrective measures that may require additional time to complete; and
- (5) document and report all of Exide's findings and responses as required by Subparagraph 17.b.

b. If Exide experiences one or more Pressure Incidents within a given calendar quarter, Exide shall document and report its findings and responses as follows:

- (1) Exide shall identify and describe the Pressure Incident(s) in the "Quarterly Deviation and Compliance Monitoring Report" section

of its Title V Quarterly Report for the relevant calendar quarter, providing, for each of the four monitors, the dates of deviation, the duration of deviation, the number of deviations, the probable cause of deviation, and the response steps taken.

- (2) For Pressure Incidents that are not due to periodic preventative maintenance or pressure monitor replacement, Exide shall prepare and submit a quarterly Supplemental Pressure Incident Report if Exide cannot provide an adequate description of its findings and responses in its Title V Quarterly Report due to the space and format limitations of the form used for those reports.
- (3) In addition to satisfying any reporting and submission requirements under its Title V Permit, until termination of this Consent Decree, Exide shall submit a duplicate copy of each Title V Quarterly Report and a copy of each Supplemental Pressure Incident Report to EPA and IDEM in accordance with Consent Decree Section XIII (Notices). Those submissions shall be made electronically by transmission to the e-mail addresses provided in Section XIII (Notices) by no later than the end of the calendar month following the relevant calendar quarter (*e.g.*, a Report for the quarter from July to September would be due by October 31).

c. Exide shall submit a written Corrective Measures Plan for EPA review and approval under Paragraph 29: (1) within 30 Days after Exide determines that major corrective measures are required to address the cause of one or more Pressure Incidents and avoid similar incidents; or (2) within 45 Days after Exide's receipt of a written request by EPA indicating that major corrective measures may be required to address the cause of one or more Pressure Incidents and avoid similar incidents, and summarizing the data and conditions justifying the request. EPA will consult with Exide in advance before making any EPA request for a Corrective Measures Plan, and the parties shall meet and negotiate in good faith to attempt to reach agreement on the need for additional testing or corrective measures. In any Corrective Measures Plan required under this Subparagraph, Exide shall describe and justify the proposed corrective measures and the proposed schedule for implementing the corrective measures. Exide shall implement any Corrective Measures Plan as specified by Subparagraph 17.d.

d. Corrective Measures Plan Implementation. Exide shall implement any Corrective Measures Plan required under this Consent Decree as follows:

- (1) If EPA approves a Corrective Measures Plan, then Exide shall implement any EPA-approved Corrective Measures Plan in accordance with the requirements and schedule set forth in the approved Plan.
- (2) If EPA does not notify Exide in writing within sixty (60) days of receipt of a Corrective Measures Plan that EPA intends to

disapprove all or part of the Plan under Paragraph 29, then the corrective measures and schedule in the proposed Plan shall be deemed acceptable for purposes of compliance with this Subparagraph of this Consent Decree. Under those circumstances, Exide shall implement the Corrective Measures Plan in accordance with the requirements and schedule set forth in the Plan. EPA does not, however, by its failure to disapprove any corrective measure that Exide may take in the future, warrant or aver in any manner that any such corrective measures will result in compliance with the provisions of the Clean Air Act or its implementing regulations.

e. In its semi-annual reports submitted under Paragraph 40, Exide shall include a detailed report on any preventative maintenance, routine maintenance, repair, and or adjustment of the digital differential pressure monitoring equipment used to monitor the Main Building total enclosure.

C. Furnace Exhaust Temperature Monitoring, Records, Standard Operating Procedures, and Installation and Use of an Afterburner

18. Exide recently installed and began operating a new furnace exhaust temperature monitoring device and completed a performance evaluation for the device and a performance test for total hydrocarbon and dioxin/furan emissions from the Facility's blast furnace and reverberatory furnace. After the Date of Lodging, Exide shall maintain and continuously operate its furnace exhaust temperature monitoring device to demonstrate compliance with the Secondary Lead NESHAP, including the continuous temperature monitoring requirements in 40 C.F.R. § 63.548(j)(1) and the temperature maintenance standards for emission of hydrocarbons and dioxins/furans in 40 C.F.R. § 63.548(j)(4).

19. Within 120 Days after the Date of Lodging, Exide shall submit a written Furnace Temperature Recordkeeping Plan for EPA review and approval under Paragraph 29. The Plan shall include systems and procedures for recording the configuration of the furnaces and the corresponding minimum compliance temperature for all 3-hour periods, as required by the Secondary Lead NESHAP, including 40 C.F.R. § 63.548(j)(4). Exide shall implement the EPA-approved Furnace Temperature Recordkeeping Plan in accordance with the requirements set forth in the approved Plan.

20. Exide recently prepared written Standard Operating Procedures designed to minimize emissions of total hydrocarbons for each startup and shutdown scenario anticipated. By no later than 60 Days after the Date of Lodging, Exide shall submit a modified Notification of Compliance Status report indicating that the facility is operating in compliance with its Standard Operating Procedures.

21. By no later than July 31, 2015, Exide shall install and operate an afterburner to increase the furnace exhaust temperature and comply with minimum temperature requirements established pursuant to the Secondary Lead NESHAP for the control of hydrocarbon and

dioxin/furan emissions from the Facility's blast furnace and reverberatory furnace. Exide shall seek modification of its Title V permit for the installation and operation of the afterburner.

22. By no later than December 31, 2015, Exide shall update all applicable written plans and procedures for minimizing emissions in order to reflect installation and use of the afterburner, including the Facility's Operation, Maintenance, and Monitoring Plan and its Standard Operation Procedures to minimize emissions of total hydrocarbons for each startup and shutdown scenario anticipated.

23. Within 90 Days after commencing operation of the afterburner, Exide shall conduct a new performance test for total hydrocarbon and dioxin/furan emissions from the Facility's blast furnace and reverberatory furnace to establish a minimum operating temperature at the afterburner for each operating scenario in accordance with 40 C.F.R. §§ 63.7 and 63.548(j)(3). Exide shall submit a performance test protocol to EPA and IDEM at least 35 Days before the test. Exide shall notify EPA and IDEM of its intent to test on a specific date at least 15 Days before performing the test(s).

24. Within 45 Days after the new performance test for total hydrocarbon and dioxin/furan emission, Exide shall submit to EPA and IDEM a complete report of the performance test for total hydrocarbon and dioxin/furan emissions.

25. If an alternate monitoring method for demonstrating ongoing compliance with the emission standards under 40 C.F.R. § 63.543(c) is approved which does not require maintenance of minimum temperatures set by 40 C.F.R. § 63.548(j), this Consent Decree is not intended to prevent the establishment of requirements implementing the alternate monitoring method for compliance.

D. Requirements for the Rolled Lead Strip ("RLS") Line

26. By no later than 90 Days after the Effective Date, Exide shall conduct a performance test for lead and PM at the RLS Baghouse exhaust, using EPA Methods 5, 201, 202, and 12, to quantify emissions and establish an acceptable pressure drop operating range for the RLS Baghouse and HEPA filters. Exide shall submit the complete testing report to EPA by no later than 60 Days after the testing is complete. Exide shall notify EPA of its intent to test at least 15 Days before performing the test(s).

27. Exide shall comply with the RLS Line Interim Requirements specified in this Paragraph beginning no later than 60 Days after the Effective Date and continuing until the RLS Line has been properly permitted by IDEM in accordance with Paragraph 28. For the RLS Line Interim Requirements: (a) Exide shall use the RLS Baghouse and HEPA filters at all times that the RLS Line or the melting pots at that location are operating; (b) Exide shall monitor and record the pressure drop across the RLS Baghouse and HEPA filters at least once per shift whenever the RLS Line has been operated (or if the RLS Line has not operated during an entire shift, then Exide shall include that information in a recorded notation); (c) Exide shall take immediate corrective action whenever the pressure drop across the RLS Baghouse has fallen outside of the acceptable operating range identified in accordance with the preceding Paragraph

and shall document the corrective actions taken; and (d) Exide shall maintain records of monitoring, maintenance, and repair of the RLS Line air pollution control equipment.

28. By no later than 120 Days after the Effective Date, Exide shall submit a permit application to IDEM to establish RLS Line Permit Requirements. The application shall include potential to emit calculations with and without air pollution control equipment. The application shall specify that Exide shall perform periodic testing – annually for lead and every five years for particulate matter – to demonstrate compliance with the permitted emission limits for those pollutants and to establish baghouse operating parameters. In addition to any other requirements specified by the application or by IDEM, the application shall incorporate the following RLS Line Permit Requirements: (a) Exide shall use the RLS Baghouse and HEPA filters at all times that the RLS Line is operating; (b) Exide shall continuously monitor and record the pressure drop across the RLS Baghouse and HEPA filters whenever the RLS Line is being operated (or if the RLS Line is not being operated, then Exide shall include that information in a recorded notation); (c) Exide shall report any pressure drop deviations to IDEM and Exide shall take immediate corrective action addressing any pressure drop deviation; (d) Exide shall maintain records of monitoring, maintenance, and repair of the RLS Line air pollution control equipment.

E. Approval of Deliverables and Steps to be Taken to Obtain Permits

29. Approval of Deliverables. After review of any plan, report, or other item that is required to be submitted for EPA review and approval pursuant to this Consent Decree, EPA (after consultation with IDEM) shall in writing: (a) approve the submission; (b) approve the submission upon specified conditions; (c) approve part of the submission and disapprove the remainder; or (d) disapprove the submission.

30. If the submission is approved pursuant to Paragraph 29, Defendant shall take all actions required by the plan, report, or other document, in accordance with the schedules and requirements of the plan, report, or other document, as approved. If the submission is conditionally approved or approved only in part pursuant to Paragraph 29(b) or (c), Defendant shall, upon written direction from EPA (after consultation with IDEM), take all actions required by the approved plan, report, or other item that EPA (after consultation with IDEM) determines are technically severable from any disapproved portions, subject to Defendant's right to dispute only the specified conditions or the disapproved portions, under Section IX (Dispute Resolution).

31. If the submission is disapproved in whole or in part pursuant to Paragraph 29(c) or (d), Defendant shall, within 45 days or such other time as the Parties agree to in writing, correct all deficiencies and resubmit the plan, report, or other item, or disapproved portion thereof, for approval, in accordance with the preceding Paragraphs. If the resubmission is approved in whole or in part, Defendant shall proceed in accordance with Paragraph 30.

32. Any stipulated penalties applicable to the original submission, as provided in Section VII, shall accrue during the 45 day period or other specified period, but shall not be payable unless the resubmission is untimely or is disapproved in whole or in part; provided that, if the original submission was so deficient as to constitute a material breach of Defendant's obligations under this Decree, the stipulated penalties applicable to the original submission shall be due and payable notwithstanding any subsequent resubmission.

33. If a resubmitted plan, report, or other item, or portion thereof, is disapproved in whole or in part, EPA (after consultation with IDEM) may again require Defendant to correct any deficiencies, in accordance with the preceding Paragraphs, or EPA may itself correct any deficiencies subject to Defendant's right to invoke Dispute Resolution and the right of EPA and the State to seek stipulated penalties as provided in the preceding Paragraphs.

34. Steps to be Taken to Obtain Permits. Where any compliance obligation under this Section requires Defendant to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant may seek relief under the provisions of Section VIII (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

VI. REPORTING REQUIREMENTS

35. Semi-Annual Consent Decree Compliance Reports. In addition to the quarterly reports required by Subparagraph 17.b(3) Defendant shall submit the following reports:

a. By July 31st and January 31st of each year after the Date of Lodging until termination of this Decree pursuant to Section XVII, Defendant shall submit a semi-annual report for the preceding six months that shall include: (1) a status report on any ongoing or completed construction projects, corrective measures, and testing efforts required by this Consent Decree; (2) a status report on any permit applications or permits issued for requirements under this Consent Decree; and (3) a description of any problems complying with this Consent Decree, together with implemented or proposed solutions.

b. The report shall also include a description of any non-compliance with the requirements of this Consent Decree and an explanation of the violation's likely cause and of the remedial steps taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be fully explained at the time the report is due, Defendant shall so state in the report. Defendant shall investigate the cause of the violation and shall then submit an amendment to the report, including a full explanation of the cause of the violation, within 30 Days of the Day Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the following Paragraph relieves Defendant of its obligation to provide the notice required by Section VIII (Force Majeure).

36. Whenever any violation of this Consent Decree or of any applicable permits or any other event affecting Defendant's performance under this Decree, or the performance of its Facility, may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA and IDEM orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

37. All reports shall be submitted to the persons designated in Section XIII (Notices).

38. Each report submitted by Defendant under this Section shall be signed by an official of the submitting party and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

39. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

40. The reporting requirements of this Consent Decree do not relieve Defendant of any reporting obligations required by the Act or implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

41. Any information provided pursuant to this Consent Decree may be used by the United States and the State in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VII. STIPULATED PENALTIES

42. Defendant shall be liable for stipulated penalties to the United States and the State for violations of this Consent Decree as specified below, unless excused under Section VIII (Force Majeure). A violation includes failing to perform any obligation required by the terms of this Decree, including any work plan or schedule approved under this Decree, according to all applicable requirements of this Decree and within the specified time schedules established by or approved under this Decree.

43. Late Payment of Civil Penalty. If Defendant fails to pay the civil penalty required to be paid under Section IV (Civil Penalty) when due, Defendant shall pay a stipulated penalty of \$1,000 per Day for each Day that the payment is late.

44. Total Enclosure Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of a requirement of Paragraph 14:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$3,000	31st day and beyond

45. Ventilation Assessment. The following stipulated penalties shall accrue per violation per Day for each violation of the ventilation assessment requirements in Subparagraph 15.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$3,000	31st day and beyond

46. Operation of Baghouses. The following stipulated penalties shall accrue per violation per Day for each violation of the requirement to operate Bin Room Baghouse No. 1, Bin Room Baghouse No. 2, and Refinery Baghouse No. 1, as specified by Subparagraphs 15.a:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$3,000	31st day and beyond

47. Negative Pressure Monitoring, Reporting, and Corrective Measures. The following stipulated penalties shall accrue per violation per Day for each violation of a requirement of Paragraph 17:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$3,000	31st day and beyond

48. Afterburner Installation. The following stipulated penalties shall accrue per violation per Day for each violation of the requirements in Paragraph 21 regarding installation and commencement of operation of an afterburner to increase the exhaust temperature from the Facility's blast furnace and reverberatory furnace:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$2,000	1st through 14th day
\$4,000	15th through 30th day
\$6,000	31st day and beyond

49. Furnace Exhaust Temperature Monitoring, Recordkeeping, and Standard Operating Procedures. The following stipulated penalties shall accrue per violation per Day for each violation of a requirement of Paragraph 18, 19, 20, 22, 23, or 24:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$2,000	31st day and beyond

50. Furnace Exhaust Temperature Control. The following stipulated penalties shall accrue after October 31, 2015, per violation per Day for each failure to maintain an afterburner or exhaust temperature such that the average temperature in any 3-hour period does not fall more

than 28 °Celsius (50 °Fahrenheit) below the average established by the performance test required by Paragraph 23:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$3,000	31st day and beyond

51. Requirements for the RLS Line. The following stipulated penalties shall accrue per violation per Day for each violation of a requirement of Paragraph 26, 27, or 28:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$2,000	31st day and beyond

52. Reporting Requirements. The following stipulated penalties shall accrue per violation per Day for each violation of the reporting requirements of Section VI:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500.....	1st through 14th day
\$1,000	15th through 30th day
\$2,000	31st day and beyond

53. Stipulated penalties under this Section shall begin to accrue on the Day after performance is due or on the Day a violation occurs, whichever is applicable, and shall continue to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree.

54. Defendant shall pay any stipulated penalty within 30 Days of receiving a written demand for stipulated penalties by the United States. The United States shall consult with the State before making any such demand and shall send a copy of the demand to the State. Defendant shall pay 50 percent of the total stipulated penalty amount due to the United States and 50 percent to the State.

55. After consulting with the State, the United States may in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under this Consent Decree.

56. Stipulated penalties shall continue to accrue as provided in Paragraph 53, during any Dispute Resolution, but need not be paid until the following:

- a. If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Defendant shall pay accrued penalties determined to be owing, together with interest, to the United States and the State within 30 Days of the effective date of the agreement or the receipt of EPA's decision or order.

b. If the dispute is appealed to the Court and the United States prevails in whole or in part, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within 60 Days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within 15 Days of receiving the final appellate court decision.

57. Defendant shall pay stipulated penalties owing to the United States in the manner set forth and with the confirmation notices required by Paragraph 9, except that the transmittal letter shall state that the payment is for stipulated penalties and shall state for which violation(s) the penalties are being paid. Defendant shall pay stipulated penalties owing to the State in the manner set forth in Paragraph 11, and shall provide written notice to the State, in accordance with Section XIII (Notices). The written notice to the State shall state that the payment is for stipulated penalties owed pursuant to the Consent Decree in *United States and the State of Indiana v. Exide Technologies*, shall state the civil action number, and shall state for which violation(s) the penalties are being paid.

58. If Defendant fails to pay stipulated penalties according to the terms of this Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall be construed to limit the United States or the State from seeking any remedy otherwise provided by law for Defendant's failure to pay any stipulated penalties.

59. Subject to the provisions of Section XI (Effect of Settlement/Reservation of Rights), the stipulated penalties provided for in this Consent Decree shall be in addition to any other rights, remedies, or sanctions available to the United States or the State (including, but not limited to, statutory penalties, additional injunctive relief, mitigation or offset measures, and/or contempt) for Defendant's violation of this Consent Decree or applicable law. Where a violation of this Consent Decree is also a violation of the Clean Air Act, its implementing regulations, or corresponding Indiana law, Defendant shall be allowed a credit, for any stipulated penalties paid, against any statutory penalties imposed for such violation.

VIII. FORCE MAJEURE

60. "Force majeure," for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (a) as it is occurring and (b) following the potential force majeure, such that the delay and any adverse effects of the delay are minimized. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Consent Decree.

61. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree, whether or not caused by a force majeure event, Defendant shall provide notice to the United States by an electronic mail message sent to all of the following individuals, within 72 hours of when Defendant first knew that the event might cause a delay:

Eleanor Kane	kane.eleanor@epa.gov
Joanna Glowacki	glowacki.joanna@epa.gov
Randall Stone	randall.stone@usdoj.gov

Within ten (10) days thereafter, Defendant shall provide in writing to the United States and the State an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the opinion of Defendant, such event may cause or contribute to an endangerment to public health, welfare or the environment. Defendant shall include with any notice all available documentation supporting the claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Defendant from asserting any claim of force majeure for that event for the period of time of such failure to comply, and for any additional delay caused by such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any entity controlled by Defendant, or Defendant's contractors knew or should have known.

62. If EPA, after a reasonable opportunity for review and comment by IDEM, agrees that the delay or anticipated delay is attributable to a force majeure event, the time for performance of the obligations under this Consent Decree that are affected by the force majeure event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure event shall not, of itself, extend the time for performance of any other obligation. EPA will notify Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure event.

63. If EPA, after a reasonable opportunity for review and comment by IDEM, does not agree that the delay or anticipated delay has been or will be caused by a force majeure event, EPA will notify Defendant in writing of its decision.

64. If Defendant elects to invoke the dispute resolution procedures set forth in Section IX (Dispute Resolution), it shall do so no later than 28 days after receipt of EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure event, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Defendant complied with the requirements of Paragraphs 60 and 61. If Defendant carries

this burden, the delay at issue shall be deemed not to be a violation by Defendant of the affected obligation of this Consent Decree identified to EPA or the State and the Court.

IX. DISPUTE RESOLUTION

65. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute under this Section shall preclude Defendant from raising any such issue as a defense to an action by the United States or the State to enforce any obligation of Defendant arising under this Decree.

66. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Defendant sends a written Notice of Dispute to the United States and the State. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 20 Days from the date the dispute arises, unless that period is modified by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the position advanced by the United States, after a reasonable opportunity for review and comment by the State, shall be considered binding unless, within 30 Days after the conclusion of the informal negotiation period, Defendant invokes formal dispute resolution procedures as set forth below.

67. Formal Dispute Resolution. Defendant shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by serving on the United States and the State a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting Defendant's position and any supporting documentation relied upon by Defendant.

68. The United States, after a reasonable opportunity for review and comment by the States, shall serve its Statement of Position within 45 Days of receipt of Defendant's Statement of Position. The United States' Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by the United States. The United States' Statement of Position shall be binding on Defendant, unless Defendant files a motion for judicial review of the dispute in accordance with the following Paragraph.

69. Defendant may seek judicial review of the dispute by filing with the Court and serving on the United States and the State, in accordance with Section XIII (Notices), a motion requesting judicial resolution of the dispute. The motion must be filed within ten Days of receipt of the United States' Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written statement of Defendant's position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree.

70. The United States, after a reasonable opportunity for review and comment by the State, shall respond to Defendant's motion within the time period allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent permitted by the Local Rules. Where the complexity of the relevant facts, data, or event requires additional time for preparation of a reasonable submission, the Court may allow such additional time (not to exceed thirty days) for submission of a motion by Defendant requesting judicial resolution of a dispute, a response by the United States, and/or a reply memorandum. Any request for additional time shall be presented to the Court by a party's motion or an agreed stipulation of the parties.

71. Standard of Review

a. Disputes Concerning Matters Accorded Record Review. Except as otherwise provided in this Consent Decree, in any dispute brought under Paragraph 67 pertaining to the adequacy or appropriateness of plans, procedures to implement plans, schedules or any other items requiring approval by EPA or IDEM under this Consent Decree; the adequacy of the performance of work undertaken pursuant to this Consent Decree; and all other disputes that are accorded review on the administrative record under applicable principles of administrative law, Defendant shall have the burden of demonstrating, based on the administrative record, that the position of the United States or the State is arbitrary and capricious or otherwise not in accordance with law.

b. Other Disputes. Except as otherwise provided in this Consent Decree, in any other dispute brought under Paragraph 67, Defendant shall bear the burden of demonstrating that its position complies with this Consent Decree and better further the environmental protection and regulatory compliance objectives of the Consent Decree.

72. The invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 56. If Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VII (Stipulated Penalties).

X. INFORMATION COLLECTION AND RETENTION

73. The United States, the State, and their representatives, including attorneys, contractors, and consultants, shall have the right of entry into any facility covered by this Consent Decree, at all reasonable times, upon presentation of credentials, to:

- a. monitor the progress of activities required under this Consent Decree;
- b. verify any data or information submitted to the United States or the State in accordance with the terms of this Consent Decree;
- c. obtain samples and, upon request, splits of any samples taken by Defendant or its representatives, contractors, or consultants;

- d. obtain documentary evidence, including photographs and similar data; and
- e. assess Defendant's compliance with this Consent Decree.

74. Upon request, Defendant shall provide EPA and IDEM or their authorized representatives splits of any samples taken by Defendant. Upon request, EPA and IDEM shall provide Defendant splits of any samples taken by EPA or IDEM.

75. Until five years after the termination of this Consent Decree, Defendant shall retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all documents, records, or other information (including documents, records, or other information in electronic form) in its or its contractors' or agents' possession or control, or that come into its or its contractors' or agents' possession or control, and that relate in any manner to Defendant's performance of its obligations under this Consent Decree. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures. At any time during this information-retention period, upon request by the United States or the State, Defendant shall provide copies of any documents, records, or other information required to be maintained under this Paragraph.

76. At the conclusion of the information-retention period provided in the preceding Paragraph, Defendant shall notify the United States and the State at least 90 Days prior to the destruction of any documents, records, or other information subject to the requirements of the preceding Paragraph and, upon request by the United States or the State, Defendant shall deliver any such documents, records, or other information to EPA or the State. Defendant may assert that certain documents, records, or other information is privileged under the attorney-client privilege or any other privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the following: (a) the title of the document, record, or information; (b) the date of the document, record, or information; (c) the name and title of each author of the document, record, or information; (d) the name and title of each addressee and recipient; (e) a description of the subject of the document, record, or information; and (f) the privilege asserted by Defendant. This Consent Decree is not deemed to waive any privilege or protection provided by law; provided, however, that no documents, records, or other information created or generated pursuant to the requirements of this Consent Decree shall be withheld on grounds of privilege.

77. Defendant may also assert that information required to be provided under this Section is protected as Confidential Business Information ("CBI") under 40 C.F.R. Part 2. As to any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures set forth in 40 C.F.R. Part 2.

78. This Consent Decree in no way limits or affects any right of entry and inspection, or any right to obtain information, held by the United States or the State pursuant to applicable federal or state laws, regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain documents, records, or other information imposed by applicable federal or state laws, regulations, or permits.

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

79. This Consent Decree resolves the civil claims of the United States and the State for the violations alleged in the Complaint filed in this action through the Date of Lodging. This Consent Decree also resolves the potential civil claims of the United States and the State for the violations alleged in the EPA Violation Notices through the Date of Lodging.

80. The resolution of liability in Paragraph 79 is conditioned on Exide's payment and the Plaintiffs' receipt and retention of the full cash amounts specified in Subparagraphs 8.a, 8.b, 10.a, and 10.b (as opposed to a reduced cash amount paid as a distribution for allowed claims in the Exide Bankruptcy). Exide shall not propose or seek confirmation of any plan of reorganization or plan of liquidation that is inconsistent with the terms and provisions of this Consent Decree, or take any other action in the Exide Bankruptcy that is inconsistent with the terms and provisions of this Consent Decree.

81. The United States and the State reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, except as expressly stated in Paragraph 79. This Consent Decree shall not be construed to limit the rights of the United States or the State to obtain penalties or injunctive relief under the Clean Air Act or its implementing regulations, under corresponding Indiana law, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in Paragraph 79. The United States and the State further reserve all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendant's Facility, whether related to the violations addressed in this Consent Decree or otherwise.

82. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, civil penalties, other appropriate relief relating to the Facility or Defendant's alleged violations, Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to Paragraph 79.

83. This Consent Decree is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Defendant is responsible for achieving and maintaining complete compliance with all applicable federal, State, and local laws, regulations, and permits; and Defendant's compliance with this Consent Decree shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The United States and the State do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Clean Air Act, 42 U.S.C. §§ 7401-7671q, or with any other provisions of federal, State, or local laws, regulations, or permits.

84. This Consent Decree does not limit or affect the rights of Defendant or of the United States or the State against any third parties, not party to this Consent Decree, nor does it

limit the rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise provided by law.

85. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

XII. COSTS

86. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States and the State shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

XIII. NOTICES

87. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

As to the United States:

1) To the U.S. Department of Justice

By U.S. Mail:

EES Case Management Unit
Re: DJ # 90-5-2-1-11003
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

and

2) To EPA:

Attn: Compliance Tracker
Air and Radiation Division
U.S. Environmental Protection Agency
Region 5
77 W. Jackson Blvd. (AE-17J)
Chicago, IL 60604

and

Office of Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 W. Jackson Blvd. (C-14J)
Chicago, IL 60604

As to the State:

1) To the Indiana Attorney General:

By U.S. Mail: Timothy J. Junk
Deputy Attorney General
Office of the Indiana Attorney General
Environmental Litigation Division
Indiana Government Center South – Fifth Floor
302 West Washington Street
Indianapolis, IN 46204

and

2) To IDEM:

By U.S. Mail: Chief, Air Compliance and Enforcement Branch
Indiana Department of Environmental Management
MC 61-53, IGCN 1003
100 North Senate Avenue
Indianapolis, IN 46204-2251

and

By U.S. Mail: Office of Legal Counsel
Indiana Department of Environmental Management
IGCN, Room 1307
100 North Senate Avenue
Indianapolis, IN 46204

As to Defendant:

Michael Henry
Facility Manager – Environment Health & Safety
Exide Technologies
2601 West Mount Pleasant Blvd.
P.O. Box 2098
Muncie, IN 47302
E-Mail: Michael.Henry@na.exide.com

and

Fred Ganster
Manager, Corporate Environment Health & Safety
3000 Montrose Avenue
Reading, PA 19605
E-Mail: fred.ganster@exide.com

and

Legal Department
Exide Technologies
13000 Deerfield Parkway, Building 200
Milton, GA 30004

and

Robert L. Collings, Esquire
Schnader Harrison Segal & Lewis LLP
1600 Market Street, Suite 3600
Philadelphia, PA 19103
E-Mail: rcollings@schnader.com

88. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

89. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XIV. EFFECTIVE DATE

90. The Effective Date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted, whichever occurs first, as recorded on the Court's docket; provided, however, that Defendant hereby agrees that it shall be bound to perform duties scheduled to occur prior to the Effective Date. In the event the United States withdraws or withholds consent to this Consent Decree before entry, or the Court declines to enter the Consent Decree, then the preceding requirement to perform duties scheduled to occur before the Effective Date shall terminate.

XV. RETENTION OF JURISDICTION

91. The Court shall retain jurisdiction over this case until termination of this Consent Decree, for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree, pursuant to Sections IX and XVI, or effectuating or enforcing compliance with the terms of this Decree.

XVI. MODIFICATION

92. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval by the Court.

93. Any disputes concerning modification of this Decree shall be resolved pursuant to Section IX (Dispute Resolution), provided, however, that, instead of the burden of proof provided by Paragraph 71, the Party seeking the modification bears the burden of demonstrating that it is entitled to the requested modification in accordance with Federal Rule of Civil Procedure 60(b).

XVII. TERMINATION

94. After Defendant has completed the requirements of Section V (Compliance Requirements), has thereafter maintained continuous satisfactory compliance with this Consent Decree for a period of twelve consecutive months, and has paid the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendant may serve upon the United States and the State a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

95. Following receipt by the United States and the State of Defendant's Request for Termination, the Parties shall confer informally concerning the Request and any disagreement that the Parties may have as to whether Defendant has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States (after consultation with the State) agrees that the Decree may be terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the Decree.

96. If the United States (after consultation with the State) does not agree that the Decree may be terminated, Defendant may invoke Dispute Resolution under Section IX. However, Defendant shall not seek Dispute Resolution of any dispute regarding termination until at least 60 Days after service of its Request for Termination.

XVIII. PUBLIC PARTICIPATION

97. This Consent Decree shall be lodged with the Court for a period of not less than 30 Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate,

improper, or inadequate. Defendant consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

XIX. SIGNATORIES/SERVICE

98. Each undersigned representative of Party to this Consent Decree certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document. Exide's agreement to this settlement is subject to and contingent upon the receipt of Bankruptcy Court approval of Exide's entry into this Consent Decree. Exide shall exercise its best efforts to obtain Bankruptcy Court approval to enter into this Consent Decree and, when this Consent Decree is lodged, shall promptly seek such approval pursuant to Bankruptcy Rule 9019.

99. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. Defendant agrees to accept service of process by mail with respect to all matters arising under or relating to this Consent Decree and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court including, but not limited to, service of a summons. The Parties agree that the Defendant need not file and answer to the Complaint unless and until 30 Days after: (1) the United States has notified Defendant in writing that it no longer supports entry of the Decree; or (2) the Court expressly declines to enter this Consent Decree.

XX. INTEGRATION

100. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than deliverables that are subsequently submitted and approved pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XXI. FINAL JUDGMENT


101. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the United States, the State, and Defendant.

UNITED STATES DISTRICT JUDGE

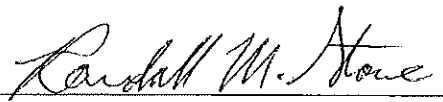
Signature page for Consent Decree in *United States and the State of Indiana v. Exide Technologies* (S.D. Ind.)

FOR THE UNITED STATES OF AMERICA:

Dated: 03-11-2015


THOMAS A. MARIANI, JR.
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

Dated: 3/16/2015


RANDALL M. STONE
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Washington, DC 20044-7611

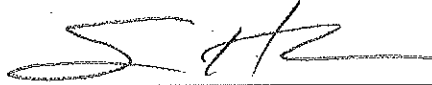
JOSH J. MINKLER
United States Attorney
Southern District of Indiana

THOMAS E. KIEPER
Assistant United States Attorney
Southern District of Indiana
10 West Market Street, Suite 2100
Indianapolis, IN 46204-3048

Signature page for Consent Decree in *United States and the State of Indiana v. Exide Technologies* (S.D. Ind.)

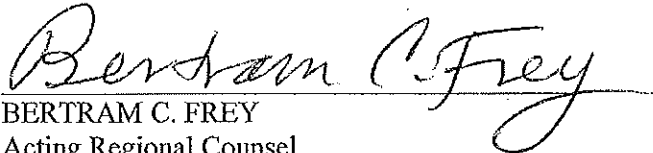
FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY:

Dated: 3-13-2015



SUSAN HEDMAN
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Dated: 3/10/2015



BERTRAM C. FREY
Acting Regional Counsel
U.S. Environmental Protection Agency
Region 5

Dated: 3/09/2015

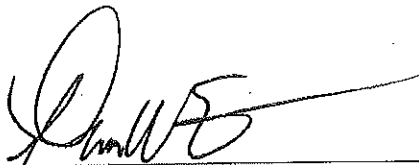


JOANNA S. GLOWACKI
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5

Signature page for Consent Decree in *United States and the State of Indiana v. Exide Technologies* (S.D. Ind.)

FOR THE STATE OF INDIANA
ON BEHALF OF THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT:

Dated: FEBRUARY 20, 2015



THOMAS W. EASTERLY

Commissioner

Indiana Department of Environmental Management

100 North Senate Avenue

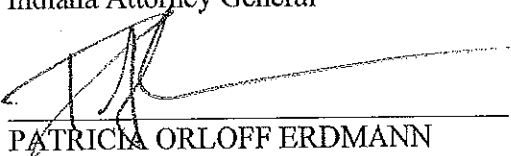
Indianapolis, IN 46204

As to form and legality:

GREGORY F. ZOELLER

Indiana Attorney General

Dated: MARCH 5, 2015



PATRICIA ORLOFF ERDMANN

Chief Counsel of Litigation

Office of the Indiana Attorney General

Indiana Government Center South

5th Floor

302 West Washington Street

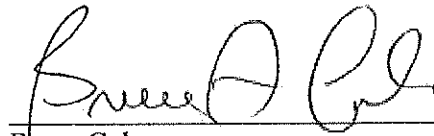
Indianapolis, IN 46204

Signature page for Consent Decree in *United States and the State of Indiana v. Exide Technologies* (S.D. Ind.)

FOR EXIDE TECHNOLOGIES
(d/b/a EXIDE TECHNOLOGIES, INC.)

Dated: _____

3/2/15

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

Bruce Cole
President – Industrial Americas
Recycling and Research & Development
Exide Technologies
13000 Deerfield Parkway, Building 200
Milton, GA 30004

Appendix G

Public Participation Process Documentation

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LEGAL NOTICE OF PUBLIC HEARING

Redesignation Petition and Maintenance Plan in association with the 2008 Annual Lead Standard for the Muncie, Delaware County, Indiana Area

Notice is hereby given under 40 CFR 51.102 that the Indiana Department of Environmental Management (IDEM) is accepting written comment and providing an opportunity for public hearing regarding the Draft Redesignation Petition and Maintenance Plan in association with the 2008 annual lead standard, for the Muncie, Delaware County, Indiana area. The area includes the Exide Technologies, Muncie, Indiana facility and is bounded by the following city streets: West 26th Street/Hines Road to the north, Cowan Road to the east, West Fuson Road to the south, and South Hoyt Avenue extended to West 26th Street to the west. All interested persons are invited and will be given reasonable opportunity to express their views concerning the submittal of the draft Redesignation Petition and Maintenance Plan.

The Muncie, Delaware County, Indiana area was designated as “nonattainment” for the 2008 annual lead standard and subject to the requirements of Section 172 of the Clean Air Act (CAA). One of the compliance requirements mandated by Section 172(c) of the CAA is the development of a plan demonstrating that the area will meet the federal 2008 annual air quality standard by the required attainment date. This Redesignation Petition and Maintenance Plan is being drafted and submitted consistent with United States Environmental Protection Agency (U.S. EPA) guidance.

Copies of the draft documents will be available on or before March 2, 2016, to any person upon request at the following locations:

- Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Room N1003, Indianapolis, Indiana
- Maring-Hunt Public Library, 2005 South High Street, Muncie, Indiana
- Yorktown Public Library, 8920 West Adaline Street, Yorktown, Indiana

The draft documents will also be available on the following web page:

<http://www.in.gov/idem/airquality/2401.htm>

Any person may submit written comments on the SIP Revision and Technical Support Document in association with the Draft Redesignation Petition and Maintenance Plan in association with the 2008 annual lead standard, for the Muncie, Delaware County, Indiana area. Written comments should be directed to:

Mr. Gale Ferris
Indiana Department of Environmental Management
Office of Air Quality, Room 1003
100 North Senate Avenue
Indianapolis, Indiana 46204

Comments can also be submitted via fax (317) 233-5967 or e-mail at gferris@idem.IN.gov. Comments must be submitted by April 12, 2016. Interested parties may also present oral or written comments at the public hearing, if held. Oral statements will be heard, but for the accuracy of the record, statements should be submitted in writing. Written statements may be submitted to the attendant designated to receive written comments at the public hearing.

A public hearing on the Draft Redesignation Petition and Maintenance Plan in association with the 2008 annual lead standard for the Muncie, Delaware County, Indiana area will be held if a public hearing request is received by April 1, 2016. If a hearing is requested, the hearing will be held on April 5, 2016. The hearing will convene at 5:30 p.m. local time at the Maring-Hunt Public Library located at 2005 High Street, Muncie, Indiana 47302. If a request for a public hearing is not received by April 1, 2016, the hearing will be cancelled. Interested parties can check the online IDEM calendar at <http://www.in.gov/activecalendar/EventList.aspx> or contact Mr. Gale Ferris at (317) 234-3653, after April 1, 2016, to see if the hearing has been cancelled or will convene.

A transcript of the hearing and all written submissions provided at the public hearing shall be open to public inspection at IDEM and copies may be made available to any person upon payment of reproduction costs. Any person heard or represented at the hearing or requesting notice shall be given written notice of actions resulting from the hearing.

For additional information contact Mr. Gale Ferris, at the Indiana Department of Environmental Management, Office of Air Quality, Room N1003, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, IN 46204 or call (317) 234-3653 or (800) 451-6027 ext. 4-3653 (in Indiana).

Speech and hearing impaired callers may contact the agency via the Indiana Relay Service at 1-800-743-3333.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Carol S. Comer
Commissioner

March 3, 2016

CERTIFICATE OF PUBLICATION

This is to certify that the Indiana Department of Environmental Management (IDEM) notice of public comment period and opportunity for a Public Hearing regarding the following:

- **Redesignation Petition and Maintenance Plan in association with the 2008 Annual Lead Standard for the Muncie, Delaware County, Indiana Area**

was published on IDEM's web site on March 2, 2016. It is expected that it will remain posted on the site until at least April 12, 2016.

The notice in full was also made available the same day online at the following web address:

<http://www.in.gov/idem/airquality/2401.htm>

Web publication of the notice was at the request of Scott Deloney, Branch Chief, Programs Branch, Office of Air Quality, IDEM.

By:

Mike Finklestein
IDEM Webmaster

Attachments:

Copy of web page as published.

http://www.in.gov/ideam/airquality/2491.htm IDEM: Redesignations and ...

File Edit View Favorites Tools Help

IDEM Extranet Suggested Sites Convert Address to Lat Lo... Free Hotmail GIS Map Review - All Doc... http://www.epa.gov/ttn-o... Indiana General Assembly... Login - att.net Yahoo! Ricoh Printer, RNP002673... Web Slice Gallery

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Air Quality in Indiana

Air Quality in Indiana Home

About IDEM
Air Quality 101

Delaware County
Muncie Nonattainment Area
2008 Annual Lead Standard

- Request to Parallel Process the Redesignation Petition and Maintenance Plan for Lead Attainment for the Muncie, Delaware County, Indiana 2008 Annual Lead Nonattainment Area IPDF
- Cover Letter to U.S. EPA (March 1, 2016) IPDF
 - Appendix A IPDF
 - Appendix B IPDF
 - Appendix C IPDF
 - Appendix D IPDF
 - Appendix E IPDF
 - Appendix F IPDF
 - Appendix G IPDF

8-Hour Ozone

- Approval and Promulgation of Delaware County 8-Hour Ozone State Implementation Plan effective January 3, 2006
- Cover Letter to U.S. EPA (August 25, 2005) IPDF
- Final Delaware County 8-Hour Ozone Redesignation Request and Maintenance Plan IPDF
 - Appendices A-F IXLS
 - Appendix G IPDF
 - Appendix H IPDF

MOBILE6.2 To MOVES

- MOBILE6.2 to MOVES MVER Replacement Update to the Delaware County Maintenance Area under the 1997 8-Hour Ozone Standard IPDF
- Cover Letter to U.S. EPA (August 17, 2012) IPDF

Online Services

- Acronyms List
- Electronic Permitting
- Enforcement Database
- Forms.IN.gov
- Online Air Permit Search
- Real-Time Monitoring
- Smog Watch
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Be aware of what's going on in your community

Top FAQs I Want To...

- How do I request or where can I find public records/files?
- How do I file an IDEM complaint?
- Where can I find information about available IDEM grants, loans, or funds?
- Where can I recycle?
- How can I find my local Solid Waste Management District?
- Where can I get information on confined animal feeding?

Date and Time

Date and Time Additional Clocks

Date: Thursday, March 03, 2016
Time: 2:24:04 PM
Change date and time...

Time zone
(UTC-05:00) Eastern Time (US & Canada)
Change time zone...

Daylight Saving Time begins on Sunday, March 13, 2016 at 2:00 AM. The clock is set to go forward 1 hour at that time.

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[Get more time zone information online](#)
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OK Cancel Apply

Modeling
NAAQS
Nonattainment
Open Burning
Outdoor Hydronic Heaters
Quality Assurance
Redesignations and Maintenance Plans
Regional Haze
Risk Assessment

2:26 PM 3/3/2016

Browser window showing the IDEM Public Notices page for Eastern Indiana. The page includes a sidebar with navigation links (Forms, Maps, Rules, Contact, Information About, Air Quality, Air Toxics Program, Blue-Green Algae, Community Environmental Health, Criminal Investigations, CTAP: Compliance and Technical Assistance Program, Enforcement, Environmental Education, Environmental Justice, Hoosier Riverwatch) and a main content area with a subscription notice and a table of public notices.

Subscriptions: Want to know about new notices as soon as they're posted? You can now subscribe to this regional public notice page. By subscribing to a region, you will be sent an e-mail or text message to your phone every time IDEM adds information to this regional page. This allows you to stay current on all posting and never miss a new posting. To subscribe, click on the subscription link in the left hand column.

Eastern Indiana

Name or Facility	Type of Notice/Event	Publication Dates	Public Comment	Additional Information
Multi-County Notices				
Enterprise TE Products Pipeline Co LLC	NPDES Final Renewal [PDF]	01/28/2016 - 02/28/2016	No	Counties: Bartholomew, Boone, Clinton, Decatur, Dubois, Franklin, Gibson, Hendricks, Jackson, Jasper, Jennings, Johnson, Lake, Marion, Newton, Orange, Pike, Posey, Ripley, Shelby, Tippecanoe, Washington, and White Project Manager: Nahir Kesterson Permit Number: IN0055859
Decatur				
Westport (town) WWTP	NPDES Final Renewal [PDF]	01/28/2016 - 02/28/2016	No	Project Manager: Jason House Permit Number: IN0024830
Delaware				
Redesignation Petition and Maintenance Plan in association with the 2008 Annual Lead Standard for the Muncie, Delaware County, Indiana Area	Legal Notice and Opportunity for Public Hearing [PDF]	03/02/2016 - 04/12/2016	Yes	Project Manager: Gale Ferris Additional information is available on the IDEM Air Quality in Indiana: Redesignations and Maintenance Plans, Delaware County page
Rosewood Manor Residential Center	Wellhead Protection Plan Phase 2 [PDF]	01/25/2016 - 02/15/2016	Yes	Project Manager: Jim Sullivan Permit Number: PWS 5218021
Park One 332 WWTP	NPDES Draft Renewal [PDF]	01/13/2016 - 02/15/2016	Yes	Project Manager: Jason House Permit Number: IN0061301
Fayette				
No current public notices.				
Franklin				
SR 101 Pipe Liners	401 Water Quality Certification Public Notice [PDF]	02/18/2016 - 03/10/2016	Yes	Project Manager: Samantha Groce Applicant Company: INDOT Permit Number: 2016-061-24-SKG-A
Metamora Regional Sewer District WWTP	NPDES Draft Renewal [PDF]	01/05/2016 - 02/08/2016	Yes	Project Manager: John Donnellan Permit Number: IN0062391
Henry				
Summit Lake State Park WWTP	NPDES Draft	01/13/2016 -	Yes	Project Manager: Jason House

Date and Time dialog box:

Date: Thursday, March 03, 2016
Time: 8:49:13 AM
Time zone: (UTC-05:00) Eastern Time (US & Canada)
Daylight Saving Time begins on Sunday, March 13, 2016 at 2:00 AM. The clock is set to go forward 1 hour at that time.
☒ Notify me when the clock changes
[Get more time zone information online](#)
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Buttons: OK, Cancel, Apply

