



Via Email to jkoizumi@aqmd.gov
January 7, 2014

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

Re: Proposed Amended Rule 1420.1

Dear Mr. Koizumi:

This comment letter is a supplement to the letter dated from NRDC and CBE October 29, 2013. Based on a number of recent, disturbing events, it appears to us that neither Exide nor Quemetco is capable of operating their facilities in a way that does not endanger public health. Rather than relax the proposed regulation, as both companies ask, the regulation should be tightened and should include monitoring for arsenic and lead in the soil as well as in the air.

RECENT DEVELOPMENTS

Quemetco Source Test Results. The District recently made public certain source test results regarding the Quemetco facility.¹ These tests, conducted on October 29, November 1 and November 7, 2013, showed very large increases in emissions from the District's 2012 testing at Quemetco: arsenic emissions were 4.3 times higher (430 percent), lead 2.1 times higher (210 percent), benzene 4.0 times higher (400 percent) and 1,3 butadiene 3.4 times higher (340 percent).

December 17, 2013 DTSC Order to Perform Emergency Response letter to Exide. On December 17, 2013, DTSC sent a letter to Exide regarding soil contamination near the Exide site.² The DTSC letter noted lead soil sampling results from August 29 and 30, 2013, and October 7 through 9, and 15, 2013, and stated:

The Report identifies several locations sampled for lead and other metals with concentrations in dust and soil at or near hazardous-waste levels within 1,500 feet from the Facility, as well as in sediment samples collected in at least two storm drains along Bandini Boulevard... [In] accordance with Section 5.4 of the 2002 Corrective Action Consent Order (CACO), DTSC considers the elevated

¹ See <http://www.aqmd.gov/rules/proposed/1420-1/2013SCAQMDSTatQuemetco.pdf>.

² See http://www.dtsc.ca.gov/HazardousWaste/Projects/upload/Exide_Technologies_Letter_Emergency_Response_Interm_Measure.pdf.

concentrations of lead and other contaminants stated in the Report an immediate threat to human health and the environment (i.e., the Los Angeles River) that will require implementing emergency response interim measures.³

December 10, 2013 SCAQMD letter to Quemetco re elevated arsenic levels. On December 10, 2013, the District sent a letter to Quemetco stating that, as a result of high arsenic emissions rates during source testing at Quemetco of the WESP (wet electrostatic precipitator) on November 22, 2013:

Because of the higher emission rates and with this letter, SCAQMD is requiring Quemetco to prepare a corresponding HRA using these higher emission rates.

Exide's December 23, 2013 Comment Letter. Exide writes (on page 2) that "A summary of Quemetco test results indicates that emissions of ALL pollutants (arsenic and organics) from the stacks still covered by the rule are substantially greater than the previous Quemetco testing that forms the basis for the rule. In other words, the rule was written using Quemetco as a model for what is achievable, but that model is now broken."

We agree. The events described above show that Quemetco is not a model for safe operation. *Soil deposition of lead from Exide and Quemetco.* Subparagraph (f)(1)(A) of the proposed Rule allows each facility to emit over 394 pounds of lead into the surrounding community every year. Data collected by DTSC suggests that much or most of this lead falls to the ground near the facilities. As Mr. Chandler (DTSC employee) pointed out in his October 15, 2013 comment letter:

SCAQMD permitted emissions settle out of the air and deposit on surfaces at and around the smelters. This deposited lead has been found by DTSC to have accumulated to hazardous waste levels. In other words, lead that SCAQMD has permitted to go past the site boundary in the ambient air at the low concentration of 1.5 µg/m³ [now 0.15 µg/m³], averaged over 30 consecutive days, has been found on the sidewalks and streets at concentrations in excess of the 1000 mg/kg hazardous waste level. [Title 22 CCR §66261.24] At Quemetco some lead concentrations were reported in DTSC soil sampling as over 5000 mg/kg in 2004. [http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/5665586709/August_23_2004_Approval_Letter_EM.pdf] and at Exide for example as 22,000 mg/kg in DTSC soil sampling in November 2008 [http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/7895222306/2009%20Emergency%20Workplan%20Conditional%20Approval%20Letter.pdf]. ..DTSC has had Quemetco clean up its immediate off-site perimeter and seen that re-contaminate from 2004 to 2008. [http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/8940061807/Total_Metals_Analysis_Report.pdf]. DTSC has had Exide do the same cleanup and also seen the cleaned areas recontaminate.

A quick review of Envirostor shows that DTSC has identified issues with lead in the soil near Exide since 2002 and near Quemetco since 2004. That lead is in the soil because the District's lead emission limits allowed it to get there. It has been recognized by the Centers for Disease

³ See *Id.*

Control that there is no safe level for lead as a human health risk. Thus, by permitting both Exide and Quemetco to emit lead into the air, which in turn penetrates the soil, the District is failing to protect the public, and particularly children, from known, potential harm to their health.⁴

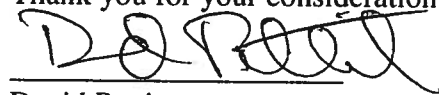
DISCUSSION

Quemetco has been held up by the District and others as a model for how Exide ought to operate. But recent events, described above, show that neither Quemetco nor Exide can be trusted to operate safely.

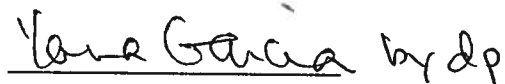
Preliminarily, allowing Exide and Quemetco collectively to emit 788 pounds of lead *each year* into the local community is completely unacceptable. Using the NAAQS for lead as a benchmark for these facilities makes little sense because the NAAQS is designed for regional compliance but the effects of Exide's and Quemetco's lead emissions are local. Accordingly, we make the following recommendations:

- A community survey should be undertaken to establish a buffer zone based on where lead and arsenic are above the OEHHA levels of concern. Until that survey is completed, no emissions of lead or arsenic should be allowed from Exide or Quemetco.
- Once the survey is completed, emission limits should be set so that no additional lead or arsenic will be deposited in the zone where lead and arsenic are above the OEHHA limits. Violation of these limits should result in shutdown of the offending facility.
- SCAQMD should participate with DTSC in regular off-site soil testing for lead and arsenic. SCAQMD should use such testing and its results to re-calculate appropriate emissions level standards, in order to protect public health.
- SCAQMD's proposed amendments should further include provisions through which the District and staff can amend, where necessary, the emission levels for all four contaminants regulated by the terms of amended Rule 1420.1, based on SCAQMD's consistent participation in soil sampling with DTSC.

Thank you for your consideration of these comments.



David Pettit
Senior Attorney
NRDC



A. Yana Garcia
Staff Attorney
Communities For A Better Environment

⁴ See, e.g., Centers for Disease Control and Prevention, "Blood Lead Levels in Children Aged 105 Years" (1999-2010), available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6213a3.htm>, last accessed on Jan. 7, 2014.