

Executive Summary – Enforcement Matter – Case No. 40684

Exide Technologies

RN100218643

Docket No. 2010-1818-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Exide Frisco Battery Recycling Plant, 7471 South 5th Street, Frisco, Collin County

Type of Operation:

Lead-acid battery recycling plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2011-0332-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 8, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$32,940

Amount Deferred for Expedited Settlement: \$6,588

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$26,352

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40684

Exide Technologies

RN100218643

Docket No. 2010-1818-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 28, 2010

Date(s) of NOE(s): October 29, 2010

Violation Information

Failed to submit effluent monitoring results at the intervals specified in the permit. Specifically, the following reports were not submitted: monthly Discharge Monitoring Reports (“DMRs”) for the monitoring periods ending March 31, 2009 through August 31, 2010; whole effluent toxicity testing reports for the quarterly monitoring periods ending March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010; and whole effluent toxicity testing reports for the semi-annual monitoring periods ending June 30, 2009, December 31, 2009 and June 30, 2010 [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System Permit No. WQ0002964000, Monitoring and Reporting Requirements No. 1, 48-Hour Acute Biomonitoring Requirements: Freshwater No. 3 and 24-Hour Acute Biomonitoring Requirements: Freshwater No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that by April 15, 2011, the Respondent has implemented the following corrective measures at the Facility:

- a. Submitted through the Net DMR System the monthly DMRs for the monitoring periods ending March 31, 2009 through August 31, 2010; whole effluent toxicity testing reports for the quarterly monitoring periods ending March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010; and whole effluent toxicity testing reports for the semi-annual monitoring periods ending June 30, 2009, December 31, 2009 and June 30, 2010; and
- b. Updated the Facility’s operational procedures and conducted employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and whole effluent toxicity reports.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

Executive Summary – Enforcement Matter – Case No. 40684

Exide Technologies

RN100218643

Docket No. 2010-1818-IWD-E

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harvey Wilson, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-0321; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495

TCEQ SEP Coordinator: N/A

Respondent: Donald G. Barar, Plant Manager, Exide Technologies, P.O. Box 250,
Frisco, Texas 75034

James Messer, Environmental Manager, Exide Technologies, P.O. Box 250, Frisco,
Texas 75034

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Nov-2010	Screening	3-Nov-2010	EPA Due	
	PCW	18-May-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Exide Technologies
Reg. Ent. Ref. No.	RN100218643
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40684	No. of Violations	1
Docket No.	2010-1818-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$27,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **Subtotals 2, 3, & 7** **\$5,940**

Notes Enhancement for two NOVs with same/similar violations and six NOVs with dissimilar violations.

Culpability **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **Subtotal 6** **\$0**

Total EB Amounts **\$119**
 Approx. Cost of Compliance **\$925**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$32,940**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$32,940**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$32,940**

DEFERRAL **Adjustment** **-\$6,588**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$26,352**

Screening Date 3-Nov-2010

Docket No. 2010-1818-IWD-E

PCW

Respondent Exide Technologies

Policy Revision 2 (September 2002)

Case ID No. 40684

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218643

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two NOVs with same/similar violations and six NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 3-Nov-2010

Docket No. 2010-1818-IWD-E

PCW

Respondent Exide Technologies

Policy Revision 2 (September 2002)

Case ID No. 40684

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100218643

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002964000, Monitoring and Reporting Requirements No. 1, 48-Hour Acute Biomonitoring Requirements: Freshwater No. 3 and 24-Hour Acute Biomonitoring Requirements: Freshwater No. 3

Violation Description

Failed to submit effluent monitoring results at the intervals specified in the permit, as documented in a record review on October 28, 2010. Specifically, the following reports were not submitted: monthly discharge monitoring reports for the monitoring periods ending March 31, 2009 through August 31, 2010; whole effluent toxicity testing reports for the quarterly monitoring periods ending March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010; and whole effluent toxicity testing reports for the semi-annual monitoring periods ending June 30, 2009, December 31, 2009 and June 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement has not been met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 27 Number of violation days 562

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$27,000

Twenty-seven single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$27,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$119

Violation Final Penalty Total \$32,940

This violation Final Assessed Penalty (adjusted for limits) \$32,940

Economic Benefit Worksheet

Respondent Exide Technologies
Case ID No. 40684
Req. Ent. Reference No. RN100218643
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$675	20-Apr-2009	15-Apr-2011	1.99	\$4	\$89	\$94
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	20-Apr-2009	15-Apr-2011	1.99	\$25	n/a	\$25
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the reports, update procedures and conduct employee training. The Date Required is date the first report was due. The Final Date is the date the reports were submitted, operational procedures were updated and employee training conducted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$925

TOTAL

\$119

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600129787	Exide Technologies	Classification: AVERAGE	Rating: 2.62
Regulated Entity:	RN100218643	EXIDE FRISCO BATTERY RECYCLING PLANT	Classification: AVERAGE	Site Rating: 1.47

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	CP0029G
	AIR OPERATING PERMITS	PERMIT	1649
	WASTEWATER	PERMIT	WQ0002964000
	WASTEWATER	EPA ID	TX0103292
	AIR NEW SOURCE PERMITS	PERMIT	1147A
	AIR NEW SOURCE PERMITS	PERMIT	3048A
	AIR NEW SOURCE PERMITS	REGISTRATION	20766
	AIR NEW SOURCE PERMITS	REGISTRATION	24449
	AIR NEW SOURCE PERMITS	PERMIT	31814
	AIR NEW SOURCE PERMITS	PERMIT	31710
	AIR NEW SOURCE PERMITS	PERMIT	41272
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CP0029G
	AIR NEW SOURCE PERMITS	REGISTRATION	74723
	AIR NEW SOURCE PERMITS	REGISTRATION	85808
	AIR NEW SOURCE PERMITS	AFS NUM	4808500001
	INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50206
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD006451090
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	30516
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	CP0029G

Location: 7471 SOUTH 5TH ST, FRISCO, TX, 75034
 TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 03, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 03, 2005 to November 03, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: Carlie Konkol Phone: (512) 239-0735

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: NO | |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/28/2005	(440031)
2	02/21/2006	(454742)
3	02/21/2006	(454952)
4	04/04/2006	(459395)

5	04/26/2007	(554384)
6	04/26/2007	(554581)
7	04/26/2007	(554593)
8	11/26/2007	(600652)
9	11/26/2007	(600681)
10	11/29/2007	(600878)
11	09/20/2007	(605117)
12	09/19/2007	(605118)
13	09/20/2007	(605119)
14	10/10/2007	(605120)
15	09/20/2007	(605121)
16	09/19/2007	(605122)
17	09/20/2007	(605123)
18	09/20/2007	(605124)
19	09/20/2007	(605125)
20	10/12/2007	(605126)
21	09/20/2007	(605127)
22	10/12/2007	(605128)
23	09/20/2007	(605129)
24	10/05/2007	(605130)
25	09/20/2007	(605131)
26	10/05/2007	(605132)
27	09/20/2007	(605133)
28	10/03/2007	(605134)
29	09/20/2007	(605135)
30	09/20/2007	(605136)
31	09/20/2007	(605137)
32	08/30/2007	(607417)
33	11/29/2007	(609591)
34	04/22/2008	(646538)
35	03/26/2008	(676386)
36	03/26/2008	(676387)
37	04/17/2008	(676388)
38	03/26/2008	(676389)
39	03/26/2008	(676390)
40	03/26/2008	(676391)
41	05/23/2008	(680273)
42	05/16/2008	(694847)
43	06/20/2008	(694848)
44	07/21/2008	(694849)
45	10/21/2008	(716314)
46	09/19/2008	(716315)
47	10/21/2008	(716316)
48	11/20/2008	(731806)
49	12/19/2008	(731807)
50	01/16/2009	(731808)
51	06/10/2009	(742012)
52	02/23/2009	(755204)
53	03/17/2009	(755205)
54	05/12/2010	(797844)
55	06/16/2010	(845946)
56	10/29/2010	(872254)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/31/2006	(605121)	CN600129787
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 05/31/2007 (605126) CN600129787
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (605128) CN600129787
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (605130) CN600129787
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/30/2007 (607417) CN600129787
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	03/31/2008	(676388)	CN600129787
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/12/2009	(742012)	CN600129787
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b)		
Description:	Failure to include all deviations on a Deviation Report.		
Date:	06/16/2010	(845946)	CN600129787
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EXIDE TECHNOLOGIES
RN100218643**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1818-IWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Exide Technologies ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a lead-acid battery recycling plant at 7471 South 5th Street in Frisco, Collin County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 3, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-Two Thousand Nine Hundred Forty Dollars (\$32,940) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Six Thousand Three Hundred Fifty-Two Dollars (\$26,352) of the administrative penalty and Six Thousand Five Hundred Eighty-Eight Dollars (\$6,588) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by April 15, 2011, the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted through the Net Discharge Monitoring Report ("DMR") System the monthly DMRs for the monitoring periods ending March 31, 2009 through August 31, 2010; whole effluent toxicity testing reports for the quarterly monitoring periods ending March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010; and whole effluent toxicity testing reports for the semi-annual monitoring periods ending June 30, 2009, December 31, 2009 and June 30, 2010; and
 - b. Updated the Facility's operational procedures and conducted employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and whole effluent toxicity reports.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System Permit No. WQ0002964000, Monitoring and Reporting Requirements No. 1, 48-Hour Acute Biomonitoring Requirements: Freshwater No. 3 and 24-Hour Acute Biomonitoring

Requirements: Freshwater No. 3, as documented in a record review on October 28, 2010. Specifically, the following reports were not submitted: monthly DMRs for the monitoring periods ending March 31, 2009 through August 31, 2010; whole effluent toxicity testing reports for the quarterly monitoring periods ending March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010 and June 30, 2010; and whole effluent toxicity testing reports for the semi-annual monitoring periods ending June 30, 2009, December 31, 2009 and June 30, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Exide Technologies, Docket No. 2010-1818-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/13/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

05/31/2011

Date

DONALD G. BARAR

Name (Printed or typed)
Authorized Representative of
Exide Technologies

PLANT MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.