



Department of Toxic Substances Control

Matthew Rodriguez
Secretary for
Environmental Protection

Barbara A. Lee, Director
8800 Cal Center Drive
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Edmund G. Brown Jr.
Governor

April 2, 2015,

Mr. Thomas Strang, V.P.
Exide Technologies
Environmental Health & Safety – Americas
Building 200
13000 Deerfield Parkway
Milton, Georgia 30004

RESPONSE TO DISPOSAL FEE LETTER DATED MARCH 12, 2015, EXIDE
TECHNOLOGIES, VERNON, CALIFORNIA; EPA ID. NO. CAD097854541

Dear Mr. Strang:

The Department of Toxic Substances Control (DTSC) has reviewed the letter dated March 12, 2015, from Advanced GeoServices (Letter) regarding the fee for disposal of hazardous waste to land. The Letter responds to DTSC's letter of February 27, 2015 to Mr. Thomas Strang of Exide Technologies (Exide) which among other issues stated that Exide was responsible for paying a disposal fee in April 2015 for all waste remaining in the Containment Building after March 11, 2015. The Letter argues that the disposal fee is not required under the facts of this case, or in the alternative, that if the fee applies, DTSC should grant a waiver of the disposal fee.

Exide's Interim Status Document (ISD) for the Vernon facility states that: Hazardous waste shall not be stored at the facility for longer than one year without written approval from the California State Department of Health Services [DTSC's predecessor]. (ISD, Section II.1(a).) The ISD further states that: If a hazardous waste is stored at the facility longer than one year, the owner or operator shall pay to the California State Department of Health Services a fee, as if the waste had been disposed of on land.... (ISD, Section II.1.(b).)

Exide argues that its storage of waste is not akin to "disposal on land" as contemplated by the ISD. The ISD however, does not require that the waste be stored in a manner akin to disposal for the disposal fee to be applied. Instead, the ISD requires the disposal fee be paid "if a hazardous waste is stored at the facility longer than one year." Exide does not dispute the fact that it has stored hazardous waste at the Vernon facility for more than one year. The fee is to be paid in this circumstance "as if the waste had been disposed of on land."

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Exide also claims that the circumstances of this case where it is in the process of shipping hazardous waste in the Containment Building to Muncie, Indiana is not an action that constitutes a disposal as defined in the regulations. Exide states that its actions of storing and shipping the waste to another location does not amount to discharging, releasing or abandoning the waste. The ISD provision however, does not require that the waste be discharged, released or abandoned for the disposal fee to be applied. It only requires that the hazardous waste be "stored at the facility longer than one year". That is the case with these Containment Building wastes.

Exide also requests a waiver of the disposal fee provision in the ISD due to the "extraordinary circumstances" associated with the movement of "... a substantial amount of material in a relatively short time frame..." The ISD provisions that are being applied to Exide have been conditions for operation of the facility since December 18, 1981. The waste in question has been stored at the facility since the facility's operations were suspended in March 2014. DTSC approved plans to containerize this waste in a letter dated January 14, 2015. DTSC directed Exide to commence immediate removal of this waste in a letter dated February 11, 2015, and reminded Exide of the ISD provision in an email dated February 20, 2015.

Because the ISD provisions are longstanding conditions required for operation of the facility under interim status, DTSC denies Exide's request to waive the disposal fee provision.

If you have any questions regarding this letter you may call me at (916) 327-1194.

Sincerely,



Rizgar Ghazi, P.E.,
Division Chief
Hazardous Waste Management Program

cc: Mr. Chuck Giesige
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