



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

Thomas W. Easterly
Commissioner

January 8, 2014

Mr. George Czerniak
Director
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: Clean Air Act, Section 112(l) Delegation
Request; Secondary Lead Smelting
NESHAP (326 IAC 20-13.1)

Dear Mr. Czerniak:

This letter is to request delegation of authority to Indiana to implement and enforce the National Emission Standard for Hazardous Pollutants (NESHAP) from Secondary Lead Smelting, 40 CFR, Subpart X. This request is consistent with United States Environmental Protection Agency's (U.S. EPA) final rule approving Indiana's Section 112(l) Program of Delegation (62 FR 36460, July 8, 1997).

Portions of the state rule have also been submitted to U.S. EPA for approval as part of the Indiana State Implementation Plan (SIP), pursuant to section 110 requirements under the Clean Air Act. The state rule addresses both NESHAP and lead National Ambient Air Quality Standard (NAAQS) requirements. Quemetco has always been a part of the lead nonattainment SIP for Marion County and now Exide will become part of the SIP because of the newly designated nonattainment status for a portion of Delaware County for the 2008 lead NAAQS.

U.S. EPA approved delegation of authority for Indiana's lead smelting NESHAP at 326 IAC 20-13 on August 22, 2006 (71 FR 48923). This request for delegation of authority is for U.S. EPA's revised lead smelting NESHAP published on January 5, 2012 (77 FR 556). Indiana adopted the revised standards at 326 IAC 20-13.1 and repealed the existing rule at 326 IAC 20-13 with all portions of the rulemaking effective January 6, 2014. Indiana adopted requirements of the federal rule into state rule, plus additional requirements, as detailed below. Therefore, IDEM is seeking approval under 40 CFR 63.92. The criteria for approval are contained in sections 63.91 and 63.92.

Based on prior program submittals and approvals for Indiana's Title V air permit and Section 112 delegation programs, Indiana has met the "up-front" approval requirements as specified in 40 CFR 63.91(d). The remaining criterion for approval is a demonstration that the State has adequate legal authority to implement and enforce the applicable federal standard. While incorporation of the federal requirements into the Title V air permit provides sufficient authority, Indiana also has incorporated the federal standards by reference into the state rules,



providing legal authority outside of the Title V program. The authority for the Secondary Lead Smelting NESHAP has been established through state rule, 326 IAC 20-13.1. The revised state rule went into effect March 16, 2013.

A copy of the state rule along with a comparison of requirements between the federal and state rule (Attachments A and B) is enclosed. In addition, because Indiana's rule is not identical to the federal rule, Indiana must also meet the criteria for approval contained in 40 CFR 63.92(b). These are as follows:

63.92(b)(1) A demonstration that the public within the State has had adequate notice and opportunity to submit written comment on the state requirements.

Title 13 of Indiana Code contains statutory requirements for the environmental rulemaking process. IC 13-14-9 specifies requirements for providing opportunities for public comment during this process. With respect to the secondary lead smelting rule, opportunities for public comment were made available through two published notices of comment period and two public hearings. All rulemaking documents for the state rule (LSA Document ID #11-774) are available on-line at:

<http://www.in.gov/legislative/iac/irtoc.htm?lsayear=11&lsadoc=774&view=list&ldn=Y>

63.92(b)(2) A demonstration that each state adjustment to the federal rule individually results in requirements that:

(i) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to applicability

Applicability of Indiana's rule, as defined in 326 IAC 20-13.1-1, is consistent with the federal rule.

(ii) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to level of control for each affected sources and emission point.

The control requirements contained in Indiana's rule are no less stringent and consistent with the type of adjustments that may be approved according to 40 CFR 63.92(b)(3). All emission stacks are subject to an Indiana lead emission limit (either 1.0 or 0.5 mg/dscm, depending on the type of operation) that is more stringent, in some cases, to the federal limit of 1.0 mg/dscm for all process vent stacks. In addition, High Efficiency Particulate Absorption (HEPA) filters are required in conjunction with a baghouse for certain process sources, which is a more stringent requirement compared to the NESHAP's optional use of these high efficiency air filters.

(iii) Are unequivocally no less stringent than the otherwise applicable federal rule with respect to compliance and enforcement measures for each affected source and emission point.

The compliance and enforcement measures contained in Indiana's rule are no less stringent and consistent with the types of adjustments that may be approved according to 40 CFR

63.92(b)(3). The federal rule does not limit the amount of time that the alarm from a bag leak detection system may be activated, as does Indiana's rule. Indiana's limit of 5% of total operating time for malfunctioning baghouses requires that corrective action be taken immediately and as identified in the standard operating procedure manual.

(iv) Assure compliance by every affected source no later than would be required by the otherwise applicable federal rule.

Exide Technologies is required to comply with a limit of 0.2 mg/dscm for the flow-weighted average concentration of lead compounds in vent gases in 326 IAC 20-13.1-5(b) by October 1, 2013 in advance of the federal compliance date of January 1, 2014. Otherwise the compliance dates in the rule are as specified in the federal rule.

63.92(b)(3) State adjustments to federal section 112 rules which may be part of an approved rule under this section are:

(i) Lowering a required emission rate or de minimis level.

Indiana's rule establishes lower emission limits for existing process fugitive and fugitive dust sources (326 IAC 20-13.1-3(a), 326 IAC 20-13.1-4(a), 326 IAC 20-13.1-5(a)(2), 326 IAC 20-13.1-5(a)(3)).

(ii) Adding a design, work practice, operational standard, emission rate, or other such requirement.

Indiana's rule requires one source to use high efficiency HEPA filters for control devices on process fugitive and fugitive sources. These filters are optional under the federal rule (326 IAC 20-13.1-4(a)).

Indiana's rule establishes an opacity limit on all lead-emitting stacks and exterior dust handling systems. Opacity from stacks is not addressed in the federal rule (326 IAC 20-13.1-10(a)).

Both the federal rule and the Indiana rule require continuous monitoring to record negative air pressure of the total enclosure, but in the Indiana rule the source is required to submit a monitoring plan and identify corrective action steps. There are no requirements in the federal rule (326 IAC 20-13.1-7(a)(1), 326 IAC 20-13.1-7(d), 326 IAC 20-13.1-7(e), 326 IAC 20-13.1-7(f), and 326 IAC 20-13.1-7(g)).

(iii) Increasing a required control efficiency.

No adjustments made.

(iv) Increasing the frequency of required reporting, testing, sampling, or monitoring.

Indiana's rule requires a one-time stack test for fugitive dust sources. There is no requirement in the federal rule (326 IAC 20-13.1-11(b)).

Indiana's rule establishes a bag leak detection alarm limit of 5% of total operating time. There is no limit in the federal rule (326 IAC 20-13.1-9(a)(1), 326 IAC 20-13.1-9(b), 326 IAC 20-13.1-9(c), 326 IAC 20-13.1-9(i)).

(v) Adding to the amount of information required for records or reports.

Indiana's rule establishes record keeping and reporting requirements for total operating hours and minutes the alarm on the bag leak detection system was activated 326 IAC 20-13.1-9(i)(1)(B)).

(vi) Decreasing the amount of time to come into compliance.

Exide Technologies is required to comply with a limit of 0.2 mg/dscm for the flow-weighted average concentration of lead compounds in vent gases in 326 IAC 20-13.1-5(b) by October 1, 2013 in advance of the federal compliance date of January 1, 2014. Otherwise the compliance dates in the rule are as specified in the federal rule (326 IAC 20-13.1(c)).

(vii) Subjecting additional emission point or sources within a source category to control requirements.

No adjustments made.

(viii) Any adjustments allowed in a specific section 112 rule.

No adjustments made.

(ix) Minor editorial, formatting, and other nonsubstantive changes.

Formatting changes have been made to incorporate state specific requirements consistent with state rulemaking procedures.

(x) Identical alternative requirements previously approved by the Administrator in another local agency within the same State, if previously noticed that the alternative requirements would be applicable in the jurisdiction seeking approval under this section.

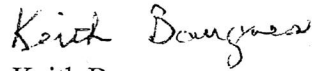
This does not apply.

In amendments to the Section 112(l) program, U.S. EPA clarified that certain authorities granted to the Administrator may be delegated to the states (65 FR 55809, September 14, 2000). These authorities, identified as Category I authorities, are listed in the final federal rule. Indiana requests delegation of these authorities, as applicable to current and future delegated Section 112 standards and programs, to provide clarity for affected sources.

G. Czerniak
Page 5 of 5

I request that U.S. EPA grant Indiana delegation of approval for 326 IAC 20-13.1. If you have any questions regarding this request, please contact Susan Bem, Rules Development Branch, Office of Legal Counsel at (317) 233-5697.

Sincerely,



Keith Baugues
Assistant Commissioner
Office of Air Quality

KB/sb
Enclosures

cc: Mary Pat Tyson