

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: May 24, 2013

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Gerry F. Miller   
Chief Legislative Analyst

Assignment No. 13-05-0456  
Council File No. 13-0630

SUBJECT: Resolution (Huizar - Alarcon) on Risk and Toxics Reduction at the Exide Battery Recycling Plant

CLA RECOMMENDATION: ADOPT revised Resolution, which would include in the City's 2013-14 State Legislative Program support for any legislation or administrative action which would impose on the Exide Battery Recycling Plant in Vernon the following: 1. The most stringent South Coast Air Quality Management District requirements to reduce harmful emissions of lead, arsenic, and other toxins as a condition to any resumption of operations; 2. The greatest Department of Toxic Substances Control (DTSC) scrutiny to ensure that Exide meets all applicable permit requirements, completes a full remediation plan, and gives the public ample assurance that wastewater systems are upgraded to the highest environmental standards before the facility is permitted to resume operations; and 3. A full investigation by the DTSC and the State Legislature to determine how a plant with known pollution problems has been allowed to operate for 31 years on a temporary permit.

## SUMMARY

Resolution (Huizar - Alarcon), introduced on May 21, 2013, would urge various government agencies to establish environmental and public health requirements that the Exide Battery Recycling Plant (Exide Plant) in Vernon must meet before it can resume operations. In March of this year, the South Coast Air Quality Management District (SCAQMD) determined that emissions from the Exide Plant included unsafe levels of arsenic; in April the State Department of Toxic Substances Control (DTSC) ordered that operations at the Exide Plant be suspended. The Resolution specifically:

- Urges the SCAQMD to ensure that the most stringent risk reduction plan with respect to harmful emissions of lead, arsenic, and other toxins be put in place before the Exide Plant can resume operations;
- Urges the DTSC to ensure that the Exide meets all applicable permit requirements, completes a full remediation plan, and provides public assurance that wastewater systems are upgraded to the highest environmental standards before the plant can resume operations; and
- Urges the DTSC and the State Legislature to conduct an investigation to determine how the Exide Plant was permitted to operate for 31 years on an interim permit.

Our office has prepared a revised Resolution that is consistent with the objectives of Resolution (Huizar – Alarcon). Adoption of that Resolution would be consistent with past City actions, including its opposition to the construction of a power plant in Vernon in 2007 that had the potential to cause adverse health effects through toxic emissions (CF 07-3791) and various other

actions in support of strong controls against harmful emissions (see CFs 12-0002-S95, 10-0002-S43, 06-0689, et. al.).

### Background

As part of its operations, the Exide Plant produces an average of 100,000 to 120,000 tons of lead per year, which is the equivalent of recycling roughly 11 million car batteries. Those activities require a hazardous waste permit from the DTSC and monitoring by the SCAQMD. In 1981, the DTSC granted Exide an interim status document, allowing some operations; in 1988, Exide applied for a full hazardous waste permit from the DTSC. In 2006, the DTSC released a draft permit, health risk assessment, and environmental impact report for public comment. Exide subsequently submitted a second application, which is still being reviewed by the DTSC.

In March of this year, the SCAQMD found that the Exide Plant's emissions contained high levels of arsenic, which contribute to an increased cancer risk to those at and around the facility. Under the emissions observed, 156 cases of cancer can be expected to develop per million people who are exposed to emissions at the plant, and risks in surrounding communities – including Maywood, Huntington Park, Commerce, and Boyle Heights – have risk levels associated with 22 cases per million people. The standard at which the SCAQMD requires the public to be notified of increased risks is an expectation of 10 cases per million people. The SCAQMD announced that as a result of its findings, Exide would be required to prepare a risk reduction plan to reduce its harmful emissions, and to hold meetings in the affected communities notifying them of the risks they had been exposed to.

Upon publication of the SCAQMD's findings, the City's Energy and the Environment Committee held a hearing on the matter. At that hearing, the SCAQMD noted that it planned on requiring a strict risk reduction plan and a number of public meetings in affected communities. The Committee additionally asked City departments if they conducted any business with the Exide Plant as part of their own battery recycling programs, and asked the City Attorney to investigate any legal recourse the City had against Exide.

The Bureau of Sanitation and the General Services Department have since reviewed their operations, and determined that they do not have any contracts with Exide, and that they instead maintain contracts with Quemetco, Inc. for battery recycling services. Quemetco has stated that it spent over \$18 million to install modern emission controls, and has not been cited by the AQMD or DTSC. The City Attorney's office further reported that it lacks any immediate civil recourse against Exide, but that it continues to investigate the possibility of pursuing criminal penalties.

Subsequent to the SCAQMD's findings and the City's Committee hearing on Exide, the DTSC ordered that operations at the plant be suspended, citing unsafe conditions related to deteriorated systems for the handling and disposal of contaminated wastewater. Operations at the plant are currently suspended.

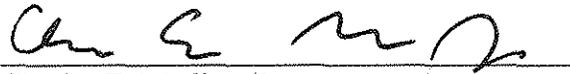
The SCAQMD has released the following schedule for public meetings on the emissions risks associated with the Exide Plant:

Thursday, May 30, 2013  
10:00 A.M., 2:00 P.M., 6:00 P.M.  
Huntington Park Community Center  
6925 Salt Lake Ave.  
Huntington Park, CA 90255

Saturday, June 1, 2013  
8:30 A.M., 11:00 A.M., 2:00 P.M.  
Doubletree Hotel  
Grand Tree Ballroom  
5757 Telegraph Road  
Commerce, CA 90040

Tuesday, June 4, 2013  
6:00 P.M.  
Resurrection Catholic Church  
3324 East Opal St.  
Los Angeles, CA 90023

Wednesday, June 5, 2013  
4:00 P.M.  
City of Vernon Council Chamber  
4305 Santa Fe Ave.  
Vernon, CA 90058



Charles E. Modica, Jr.  
Analyst

Attachments:

- (1) Revised Resolution
- (2) Resolution (Huizar – Alarcon)

## RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the South Coast Air Quality Management District (SCAQMD) recently found that the Exide battery recycling plant in Vernon has been releasing emissions with high arsenic levels that significantly increase the cancer risk of those at and around the plant; and

WHEREAS, Exide's own Health Risk Assessment indicated that residents of the City of Los Angeles living in Boyle Heights faced the highest risks of any of the affected residents; and

WHEREAS, these risk levels require Exide to prepare a Risk Reduction Plan, overseen by the SCAQMD; and

WHEREAS, the cancer risk associated with the emissions is affecting as many as 110,000 people who live in an area that extends from Boyle Heights to Maywood and Huntington Park; and

WHEREAS, upon learning of the increased risk levels, the Energy and the Environment Committee held a hearing at which it requested the City Attorney, Bureau of Sanitation, and Chief Legislative Analyst to report back on what remedies — legal and otherwise — the City has against Exide in this matter; and

WHEREAS, the State Department of Toxic Substances Control (DTSC) has since shut down operations at the plant due to unsafe conditions related to deteriorated systems for the handling and disposal of contaminated wastewater; and

WHEREAS, the facility had operated on an interim permit from DTSC since December 1981; and

WHEREAS, the health risks associated with air and water pollution from Exide's plant are real, severe, and unacceptable to workers and residents, and it is of the highest importance that those risks are eliminated to the fullest extent possible before any operations at the plant resume; and

WHEREAS, those communities that have been affected by the unhealthy emissions and contamination at the plant deserve the opportunity to weigh in on operations at the plant and be fully briefed on the practices that have led to those health risks and what is being done to eliminate them now and in the future;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013 and 2014 State Legislative Program support for any legislation and/or administrative action which would impose upon the Exide Battery Recycling Plant in Vernon the following: 1. The most stringent SCAQMD requirements to reduce harmful emissions of lead, arsenic and other toxins as a condition to any resumption of operations; 2. The greatest DTSC scrutiny to ensure Exide meets all applicable permit requirements, completes a full remediation plan, and gives the public ample assurance that wastewater systems are upgraded to the highest environmental standards before the facility is permitted to resume operations; and 3. A full investigation by the DTSC and the State Legislature to determine how a plant with known pollution problems had been allowed to operate for 31 years on a temporary permit.

13-0630

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NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby URGES the South Coast Air Quality Management District to ensure that the most stringent risk reduction plan to harmful



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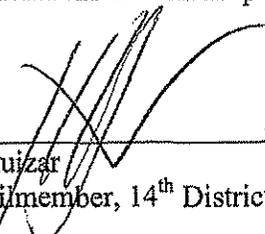
emissions of lead, arsenic and other toxins be put in place before the Exide Battery Recycling Plant is permitted to resume operations; and

BE IT FURTHER RESOLVED, the City of Los Angeles urges the DTSC to ensure Exide meets all applicable permit requirements, completes a full remediation plan, and gives the public ample assurance that wastewater systems are upgraded to the highest environmental standards before the facility is permitted to resume operations; and

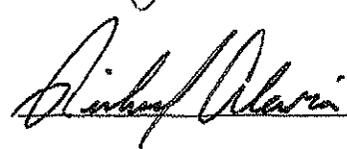
BE IT FURTHER RESOLVED, the City of Los Angeles urges the DTSC and the State Legislature to conduct a full investigation to determine how a plant with known pollution problems had been allowed to operate for 31 years on a temporary permit.

BE IT FURTHER RESOLVED, that the City Attorney consider options for the City of Los Angeles, including possible legal action regarding the above violations as well as potential Prop 65 violations.

PRESENTED BY:

  
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Jose Huizar  
Councilmember, 14<sup>th</sup> District

SECONDED BY:

  
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Richard Alarín

MAY 21 2003