November 2, 2006

Dr. Robert F. Sawyer,
Chairman
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Re: Agenda Item 6-8-3
Proposed Amended ATCM for Chrome Plating and Chromic Acid Anodizing Operations

Dear Dr. Sawyer:

We have been caught off guard.

The Metal Finishers Association of Southern California ("MFASC") and the Surface Technologies Association ("STA")(collectively, the "Associations") have worked very hard to collaborate with the California Air Resources Board ("CARB") and its Staff to reach resolution on a number of issues affecting the Proposed Amended ATCM for Chrome Plating and Chromic Acid Anodizing Operations ("PAATCM"). From the mandate of the September 28, 2006 CARB hearing, we understood that CARB Staff was directed to work with the air districts and industry to craft a solution over a handful of minor issues that remained with the PAATCM.

Following the hearing, the Associations did not hear from the CARB Staff concerning this matter for over thirty days. There were no meetings or communications other than an email request to review two industry operations that was scheduled for November 1st. We further checked with the air districts and were informed they had not been contacted. Based on this general lack of communication and the late date of the industry review, we were concerned on how we would meet with Staff and the air districts and still reach resolution on the PAATCM in time for the November 16-17 hearing.

The Associations just received by email a copy of a draft entitled "Staff's Suggested Modifications to the Original Proposal November 17, 2006" ("New Proposal"). It has not been posted on the CARB website for public review. The New Proposal is the result of no interaction with the Associations. It does not narrow minor differences from the Original Proposal; instead it creates an entirely new regulation with significant additional impacts, both technically and economically, as well as a new prescriptive standard. The New Proposal is so radically different from what had been proposed originally, that the Initial Statement of Reasons becomes totally irrelevant. The Associations specifically, and the public generally, have no ability to understand the effect of the multiple impacts made by the New Proposal.

The Associations were so shaken with this New Proposal that we went back to the September 28th Hearing Transcript ("Transcript") to see if we had not heard the directions clearly. Board Member Berg recommended to "return this [PAATCM] back to staff [so they could] get with industry and get with the districts and get it worked out." Transcript, Page 175. Board Member Loveridge echoed the recommendation. Transcript, Page 176. When asked if the additional time would help, Executive Officer Witherspoon thought a change could be made quickly, but also felt that additional time for the air districts and "quality time" with industry would be required to bridge a number of issues raised. Transcript, Pages 177-178. We believe the direction was clear: CARB Staff was directed to work with industry to reach resolution.

The changes in the New Proposal are so fundamental that it is hard to find a place to begin. We compared several of the major new issues found within the New Proposal with the PAATCM and found these changes were not sufficiently related to the PAATCM:

- PAATCM - based on statewide modeled risk (assumed 1 cancer risk or less per million persons over 70 years exposure).
- New Proposal - based on distances.

- PAATCM - 0.06 milligrams per ampere-hour (mg./AH) for small sources; all others 0.0015 mg./AH.
- New Proposal - 0.0011 mg./AH.

- PAATCM – distance determined by district.
- New Proposal – distance determined from closest part of building (not emission source) to nearest point of receptor property.

- PAATCM – distance determined at time of standard's effect on the facility.
- New Proposal – distance to be measured annually to determine if more stringent standards will be imposed.

The New Proposal also retained the prescriptive standard requiring add-on controls rather than setting a performance standard. CARB Staff described an elaborate demonstration option, which in our members' experience, would require extraordinary efforts over several years to satisfy. In the meantime, businesses must meet the prescriptive standard and once met with the more expensive equipment, the cost cannot be recovered. If the company cannot pay for the expensive equipment, it will be put out of business long before the "option" will be available. Essentially, the "option" from the prescriptive standard is no option at all and is contrary to State policy.

What seems to have gotten lost in the CARB Staff's unilateral action is the opportunity for an industry-CARB-air district partnership and a dialogue that could bring the parties together for a unanimously supported PAATCM. We want that opportunity before it is too late and hope that the parties could be directed to some form of negotiated rulemaking that has been used so successfully on this topic in the recent past.

Based on the Notice posted for this item, the Associations must file written comments before noon, November 15, 2006. Given that short time frame, we do not believe there is time to work with Staff or to reach a common ground before the hearing. We do not believe a telephone conference after-the-fact is going to cure the multitude of problems associated with the New Proposal. We ask that this item be continued for at least 60 days so that industry, Staff and the air districts can meet and move back towards the PAATCM that was so near successful conclusion.

Very truly yours,

Daniel A. Cunningham
MFASC Executive Director
STA Executive Director