

12-06-2006 11:31am From: MCKENNA LONG & ALDRIDGE

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The logo for the Metal Finishing Association of Southern California (MFASC) is displayed in a stylized, bold font with a metallic or 3D effect.

December 6, 2006

The logo for the Surface Technology Association (STA) is displayed in a bold, sans-serif font within a rectangular border.

Via Electronic Mail

Chairman Sawyer and Board Members
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

**Re: Comments to Proposed ATCM for Chrome Plating and Chromic Acid
Anodizing Operations**

Dear Chairman Sawyer and Board Members:

We are writing this letter on behalf of the Metal Finishing Association of Southern California, Inc. ("MFASC") and the Surface Technology Association ("STA") regarding the California Air Resources Board ("CARB") Staff's third version dated November 30, 2006 of the Proposed Amended Air Toxic Control Measure ("PAATCM") for chrome plating and chromic acid anodizing operations, which addresses hexavalent chromium ("Cr6") emissions from these businesses. The original version of the PAATCM was prepared and submitted along with an Initial Statement of Reasons ("Staff Report").

Our earlier submission to the record concerning the original version of the PAATCM and Staff Report remain in many ways unaltered by the subsequent iterations. Our ongoing concerns over the economic burden imposed by the PAATCM and the extreme costs associated with reducing two pounds of hexavalent chromium within the state's 3,000 plus pound annual inventory cannot be understated. Comparable emissions reductions in this industry can be achieved without severe economic consequences. We still believe a reasonable approach producing dramatic results without forcing business closure can be found in the South Coast Air Quality Management District Rule 1469. The Staff Report ignored many economic issues that we previously identified. The latest version of the PAATCM does not correct or mitigate these economic concerns, and its greater impact has not been analyzed by CARB Staff (or industry since we were given no time to adequately prepare a response with our economic expert).

At the September 28, 2006 CARB Hearing, the MFASC and STA suggested that their members could work with the proposed PAATCM if three changes were made. These changes had to do with flexibility or technology neutral compliance ("equivalency") to achieve the standards set forth in the PAATCM, certification of foam blanket technology and allowance of fume suppressant technology for facilities able to meet one in one million ("1:1M") risk or less. The original distances evaluated for the PAATCM considered facilities less than 100 feet and greater than 100 feet.

Since the September 28, 2006 hearing, two versions of the PAATCM have been issued. We have written letters to you and to Ms. Takemoto of the CARB Staff concerning the changes and issues we identified. See Letters from Mr. Daniel A. Cunningham dated, November 2,

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November 22, and December 1, 2006 (Included in the Public Comments to this PAATCM). Without reiterating those letters in their entirety, we remain concerned that the issues we identified, and for which the September 28, 2006 CARB Hearing was continued so that those differences could be addressed, remain unaltered.

Specifically, the latest PAATCM now sets *new* greater limits based facilities located less than 330 feet and greater than that distance from a sensitive receptor. Flexibility to achieve compliance with alternative technologies remains unchanged; add-on controls are still mandated and this prescription requires that EPA concur with any alternative technology. See December 4, 2006 letter from Deborah Jordan, Director, Air Division EPA Region IX to Robert D. Barham, Assistant Chief, CARB (Included in Public Comments to this PAATCM). EPA concurrence is already a part of the standard and more pointedly, the concurrence process has been notoriously and glacially slow in the past. Four hard chrome platers sought EPA concurrence for alternative compliance starting in 1998 and obtained it not in 45 days, but four years and three months later in September 2002. The idea that words implying flexibility will make the latest version of the PAATCM different, is not accurate in practice. We continue to request removal of the language mandating add-on controls.

Alternatively, the MFASC and STA ask that "equivalency" in the standard be specifically deferred to the local air districts and that CARB Staff be directed to work with industry in reviewing equivalency alternatives as part of a 12 month demonstration program. We believe that CARB has not had adequate experience with the in-tank control technologies that industry believe are equally effective. We believe the agency's involvement will validate our data.

Our industry concern for certifying foam blankets is simple - they work. The SCAQMD has actually tested and certified their use. We continue to request that CARB work with industry as part of a demonstration program. We also suggest that language be included in the final ATCM whereby CARB will permit the local air districts the discretion to certify fume suppressants both separately and used in conjunction with foam blankets in addition to the ones CARB has already listed.

We remain concerned over the failure of the PAATCM to address pollution controls in a way that achieves a favorable reduction of risk without economic harm to the metal finishing industry. The latest PAATCM mandates tighter control technologies than necessary to achieve a 1:1M risk threshold. Application of more economical control alternatives (i.e., chemical fume suppressants), specifically, for any facility below 200,000 ampere-hours per year ("AH/Y") and further than 330 feet from a sensitive receptor, will achieve a 1:1M risk or lower. These smaller emitting facilities are also likely to be on the lower side for revenue and less likely capable of affording expensive add-on control technology. Meeting a risk level of 1:1M is consistent with other standards set by CARB in the past. As is also consistent with the approach to any PAATCM, economics must be factored into the analysis. See Health and Safety Code section 39665(b)(5). The result of this mandate would be significant to these facilities, especially considering that potential modeled exposure (which is far greater than actual exposure) will be at 1:1M risk or less with the more economical control technology.

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We wish to make a final point concerning the latest version of the PAATCM. It now includes a requirement in Appendix 3 mandating that facilities measure annually the distance to the nearest sensitive receptor and include that information in their compliance status reports. See Appendix 3, #1, November 30, 2006, PAATCM. The measurement requirement has no bearing on the standard under the latest revised PAATCM. A single threshold measurement is made pursuant to section 93102.4(b)(2)(A) within 30 days of the Effective Date of the PAATCM. Once that measure is made, the distance measure is no longer needed since it no longer applies to the standard. We do not know if a local air districts might have an interest in this information, but believe that interest should be left to the local air district without mandating it in the rule. We propose that the requirement be deleted.

If the Board chooses to go forward with an amendment to the ATCM, we urge the Board to adopt our suggested changes since they are more effective than the current proposal and are a less costly alternative "would be equally as effective in achieving increments of environmental protection in a manner that ensures full compliance with statutory mandates..." Health & Safety Code Section 57005(a).

As we outlined previously, the cost of this PAATCM before it was significantly revised, is well beyond the threshold causing significant impact to business in this state. As we also have previously shown, the impact spreads to other industry. The loss of jobs and the inability to compete against out-of-state metal finishers will have a major impact. Likewise, the adoption of this PAATCM will be at a cost far exceeding any other ATCM adopted by CARB for a measure whose costs far exceed its alleged benefits.

We hope you will consider our alternatives. Our industry wants to continue its cooperation with government to achieve a safe and reasonable rule that protects human health and jobs. We believe our approach attains that result.

Very truly yours,


Daniel A. Cunningham
MFASC Executive Director
STA Executive Director