

Jane Williams
06-8-3

December 6, 2006

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

VIA FACSIMILE

Re: Proposed Revisions to the Air Toxic Control Measure ("ATCM") for Chrome Plating and Chromic Acid Anodizing Facilities

Dear Chairman Sawyer and Board Members:

We are writing to express our continued concerns about the Proposed Revisions to the Air Toxic Control Measure ("ATCM") for Chrome Plating and Chromic Acid Anodizing Facilities. We appreciate the considerable work that ARB staff has put into these proposed revisions since the last hearing. However, the concerns we expressed to you in our letter of September 21, 2006, and at the September 28 Board hearing, have not been addressed. We thus feel that the rule still does not go far enough to protect public health. Our concerns relate to the following two major issues:

- 1. HEPA Filtration systems, or equivalent add-on pollution control devices, are the Best Available Control Technology and should be required for all chrome platers in the State of California that are located within 1000 feet of a sensitive receptor.**

At the September 28, 2006 hearing, ARB staff noted on several occasions that the HEPA filtration systems, or equivalent add-on controls, are the Best Available Control Technology for chrome plating, and are preferable to the use of fume suppressants and other in-tank controls due to their superior control efficiency and the minimal potential for operator error. We agree. For this reason, as we have consistently argued throughout our participation in the development of this ATCM, we urge you to require these systems for platers located within 1000 feet (about three blocks) of a sensitive receptor. We again call to your attention the fact that the ARB's Air Quality and Land Use Handbook urges planners to avoid siting new sensitive receptors within 1000 feet of an existing chrome plater because of the concerns about the health effects from hexavalent chromium exposure. Additionally, under the proposed ATCM, new facilities of any size will be prohibited from locating within 1000 feet of a sensitive receptor, and will be required to install a HEPA filter or equivalent add-on control system. Given the extreme toxicity of hexavalent chromium, the uncertainties as to the risks associated with fugitive dust, and the high potential for operator error with the use of fume suppressants, residents in our communities demand that those facilities located within three blocks of their home,

school, or day care be required to use the most effective technology known to the State of California.

We are most concerned about those small sources¹ that will be allowed to use fume suppressants without any requirement to show equivalency with the emission reductions possible when using BACT. Many of these sources are small businesses, but some of these businesses may also have a small plating operation that is part of a much larger business. We have often heard that there is an issue of fairness to business which leads staff not to propose a requirement for add-on controls for these "small" sources. However, in this way staff overlooks the issue of fairness and justice to those residents that live next door to these facilities. We dispute that the definition of BACT, and its associated emission rate, should be different depending on the size of the facility. Furthermore, according to the Staff Report, the model used to predict cancer risk from the smallest facilities, those at less than 20,000 ampere-hours, cannot accurately predict the risk at distances closer than 60 feet from the facility. See Staff Report at p. 72. The Staff Report also notes that "A recent study, funded by ARB, indicated that the model employed in this analysis may actually under-predict near-source concentrations." See Staff Report at p. 74. Staff cannot predict if the risk next door is one per million, ten per million, or even greater, as was the case with Master Plating. Yet, these sources are not required in the proposal to install add-on controls, despite the risks that they pose to their neighbors.

At the hearing, several members of your Board noted the need to address the extreme near-source impact issue. This proposal does not go far enough to address the near source impacts associated with chrome plating. For the above reasons, we would again request that the proposal be amended to require that all existing facilities within 1000 feet of a sensitive receptor be required to install HEPA filtration or equivalent add-on controls. At a minimum, small sources must be required to meet the same emission limit and BACT equivalency demonstration as other sources under the rule.

- 2. If sensitive receptors move to within 1000 feet of a chrome plater that does not have an add-on control device, that facility must be required to install controls within two years.**

Staff initially proposed, in its November 17, 2006 version of the proposed ATCM, that add-on controls would be required if a sensitive receptor were to move in within 330 feet of a chrome plater. We heartily support this language, subject to the separation distance issues noted above. As we noted at the previous hearing, residents that are located in the future next to an existing chrome plater must be protected to the same degree as existing residents. Accordingly, we would suggest that the rule also be amended to provide that if a sensitive receptor moves to within 1000 feet of a chrome plating or chromic acid anodizing operation, that facility must install HEPA or equivalent add-on controls within two years.

¹ For purposes of this letter, small sources are those operating at less than 20,000 ampere-hours at less than 330 feet, or less than 50,000 ampere-hours at greater than 330 feet from a sensitive receptor.

Thank you for your consideration of our comments.

Sincerely,

Bonnie Holmes-Gen
American Lung Association
Sacramento, CA

Annie Waterman
Action Now
Burbank, CA

Jane Williams
California Communities Against Toxics
Rosamond, CA

Joe Lyou
California Environmental Rights Alliance
Los Angeles, CA

Robina Suwol
California Safe Schools
Toluca Lake, CA

Penny Newman
Center for Community Action and Environmental Justice
Glen Avon, CA

Tim Carmichael
Coalition for Clean Air
Los Angeles, CA

Bill Gallegos
Communities for a Better Environment
Huntington Park, CA

Cynthia Babich
Del Amo Action Committee
Torrance, CA

Roland Valentine
Desert Citizens Against Pollution
Rosamond, CA

Diane Takvorian, Executive Director
Environmental Health Coalition
San Diego, CA

Bradley Angel
Greenaction
San Francisco, CA

Tim Grabiell
Natural Resources Defense Council
Los Angeles, CA

Felipe Aguirre
ProUno
Maywood, CA

Luis Cabrales
Residents of Pico Rivera for Environmental Justice
Pico Rivera, CA

Sheila Davis,
Silicon Valley Toxics Coalition
San Jose, CA

Shabaka Heru
Society for Positive Action
Athens Park, CA

Markland Manufacturing, Inc.
1111 E. McFadden Ave.
Santa Ana, CA

MARKLAND, DONALD RAY / REINEKE,
KEITH EDWARD / MARKLAND
MANUFACTURING INC. / MARKLAND
INDUSTRIES INC.

Criminal case summary:

Santa Ana motorcycle parts manufacturing company and its' officers charged with 24 felony counts of illegally disposing of hazardous waste (nickel, copper, lead and arsenic) through the sewer system and the soil). In 2002, the company paid \$21,000 in fines to the Orange County Sanitation District for illegally disposing of untreated waste through the sewer.

Settlement:

Markland agreed Friday to pay more than \$350,000 in fines and penalties for releasing hazardous material into the environment.

Markland Manufacturing Inc. pleaded no contest to three felony counts earlier this year, two for throwing material made of nickel into the trash, and one for allowing acidic liquid to leak from the property. If hauled to a landfill, the nickel could contaminate soil or groundwater; the acidic liquid could damage sewage treatment plants.

In addition to paying \$351,429, Markland agreed to three years probation during which law enforcement officials can enter the premises at any time to search the property.

The investigation began in 2004 after the state Department of Toxic Substances Control received a tip from a former Markland employee.