

January 17, 2023

Dear California Air Resources Board,

The Center for Environmental Health (CEH) appreciates the opportunity to provide comments regarding the Proposed Amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations. We commend the California Air Resources Board (CARB) for taking a decisive step to phase out the use of hexavalent chromium (hex chrome) in decorative and functional plating facilities and for proposing interim measures to reduce fugitive emissions of hex chrome from these facilities. For more than five years, CEH has been working together with residents in Paramount, CA to reduce hex chrome exposures. CEH brought public interest litigation against industrial emitters of hex chrome, including chromium electroplating and chromic anodizing facilities, requiring the facilities to disseminate warnings and information about their emissions of cancer-causing hex chrome to residents, and perform routine audits of their pollution reduction controls and efficacy in reducing emissions. Since the conclusion of the legal cases, we have set-up a community-led air monitoring project to measure hex chrome levels in Paramount.

While there have been substantial reductions in ambient air concentrations of hex chrome in Paramount since 2016, it is clear from current ambient air monitoring data that emissions remain dangerously high for residents<sup>1</sup>. Paramount is only one of many environmental justice communities throughout the state facing exposures to hex chrome from plating facilities. The Biden Administration has committed to taking a “whole-of-government approach” to achieving environmental justice. Our experience in Paramount as well as this mandate underscore the need for an accelerated timeline and more aggressive monitoring and enforcement actions to reduce human health exposures to hex chrome. Below, we detail our specific recommendations and justification for modifications to the Proposed Amendment.

### **Phase-out of Hex Chrome in Functional Plating Facilities Must Occur Before 2039**

As CARB staff repeatedly make clear in the Initial Statement of Reasons (ISOR) supporting the Proposed Amendments to the ATCM, there is no safe level of exposure to hex chrome. Over a lifetime, chronic exposure to even very low concentrations of hex chrome in the air can result in the development of lung and nasal cancer<sup>2</sup>. Given what is known about the toxicity of hex chrome and concerns surrounding elevated concentrations of hex chrome in environmental justice communities like Paramount, the proposed timeline for the phaseout of the use of hex chrome in functional chrome plating facilities by 2039 is simply too long for residents to continue being exposed.

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<sup>1</sup> <https://tbsysclient.com/paramount/paramounthexchrometbssys.pdf>

<sup>2</sup> <https://oehha.ca.gov/media/downloads/faqs/hexchromiumairfact111616.pdf>

We strongly suggest that CARB consider adopting the phaseout timeline proposed in Alternative 1 (p. 222, ISOR). CARB's reasoning for rejecting this alternative timeline cites the higher costs to chrome plating facilities and the absence of suitable alternatives to hex chrome in functional plating industries. Absent in this cost analysis are the historic and ongoing costs borne by residents exposed to hex chrome pollution from the chromium plating industry. As CARB states,

Nearly 30 percent of chrome plating facilities have residential receptors located within 100 meters. Approximately 10 percent of chrome plating facilities have receptors located within 20 meters. Many chrome plating facilities are located in disadvantaged communities and other populated areas near sensitive receptors, such as schools (p.187, ISOR).

The material and symbolic costs of hex chrome pollution borne by these communities include medical expenses incurred to treat health impacts like asthma and lung cancer, the costs of environmental cleanup and monitoring, and the intangible costs in the reduction of quality of life from breathing contaminated air. We urge CARB to also weigh these burdens against the costs to industry in any analysis of the financial impact of proposed phaseout timelines.

We also understand that technological advancements are currently limiting the replacement of hex chrome in functional plating industries. If technology is the limiting factor in implementing an accelerated phaseout, we strongly suggest that CARB include a provision in the Proposed Amendments that states that should a replacement technology become available before the initial technological review in 2032, the agency will revise the timeline for phaseout of the use of hex chrome in functional plating industries.

The CalEnviroScreen 4.0 tool points to high levels of air pollution in Paramount, indicating that it should be considered a "nonattainment area" under Section 172 (a)(2)(c) of the Clean Air Act (CAA). In October of last year, EPA interpreted this section to mean that this section promotes the "expeditious attainment of National Ambient Air Quality Standards to protect human health and the environment."<sup>3</sup> A high concentration of air pollutants that carry the "hazardous" designation such as hex chrome can further cause EPA to reclassify the area as "severe", for which the attainment timelines are even more stringent.<sup>4</sup> Whether CalEPA considers Paramount to be "nonattainment" or "severe nonattainment" according to the latest available data, CARB's phaseout timeline for hex chrome will be out of step with the CAA's mandate.

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<sup>3</sup> 87 Fed. Reg. 60, 897 (Oct 7, 2022)

<sup>4</sup>As detailed in CAA Section 112(e)

## **Monitoring and Enforcement is Needed to Ensure Compliance with Fugitive Emissions Reduction Measures**

Since June 2022, CEH together with a group of Paramount residents, have been collecting data on ambient air concentrations of hex chrome downwind of metal-processing facilities in Paramount<sup>5</sup>. The data from our monitoring as well as the City of Paramount's monitoring consistently show high levels of ambient air hex chrome pollution from metal-related processing facilities including chromium plating facilities. Despite regulatory measures aimed at reducing fugitive hex chrome emissions under South Coast Air Quality Management District's (SCAQMD) Rule 1469, ambient air concentrations of hex chrome still pose a chronic health risk for residents. In SCAQMD's 2016 hex chrome investigation, vents and open doorways were found to be contributing to fugitive emissions and near-source ambient air hex chrome concentrations.

While we agree with CARB that short-term mitigation measures such as building enclosures and enhanced best management practices are necessary to reduce fugitive emissions at chrome plating facilities, we believe facilities will not comply with these added measures without consistent monitoring and compliance structures. It should be noted that under CAA Section 505(e), the presence of fugitive emissions mandates that any and all Title V operating permits for hex chrome facilities in Paramount be reopened.

We understand CARB likely does not have the administrative capacity to reopen these permits but maintain that preventative measures to reduce fugitive emissions like those proposed in the ISOR can only be effective if enforcement activities are also carried out. Enforcement and compliance cannot occur without baseline data and we strongly urge CARB to work with the appropriate agencies to collect additional data on hex chrome emissions from functional and decorative chrome plating facilities. The best indicator of compliance is data from before and after implementation of the proposed amendments. Relying on facilities to self-report opens the door for facilities to stray further from the requirements of the CAA through more lackadaisical data collection and "greenwashing."

Given our success in implementing community-led monitoring in Paramount, we would also encourage CARB to explore ways to further incorporate community participation into monitoring and oversight of compliance. We encourage CARB and all other relevant divisions of CalEPA to use the authority under the Title V Permitting Rule<sup>6</sup> to consider modifying the Title V operating permits of hex chrome plating facilities and bringing affected communities such as Paramount into that process.

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<sup>5</sup> <https://4m622z-eliza-butterfield.shinyapps.io/ParamountNewApp003/>

<sup>6</sup> 40 CFR Section 70.7(g)

## **Monitoring and Enforcement is Needed to Ensure Compliance with the Whole of Government Approach to Environmental Justice**

The State of California is slated to receive billions of dollars over the next decade from the historic investments in climate, clean energy, and environmental justice made by the Biden Administration. In accordance with Executive Order 14008, which established the Justice40 Initiative, at least 40% of these investments must flow to disadvantaged communities in California. The high pollution burden and low socioeconomic attainment scores for nearly all census tracts in the Climate and Economic Justice Screening Tool indicate that Paramount is one such community from a Federal perspective. “Direct Awards to Air Agencies for Continuous Monitoring of PM2.5 and Other Common Air Pollutants” is considered a Justice40 “covered program” at EPA. Comprehensive and consistent monitoring and an expeditious timeline for phasing out hex chrome emissions will ensure CARB’s rulemaking is in alignment with Federal efforts to reduce emissions of air pollutants in disadvantaged communities.

Once again, we would like to thank you for the opportunity to comment on the Proposed Amendments to the ATCM on Chromium Electroplating and Chromic Acid Anodizing Operations. We look forward to discussing your response.

Sincerely,

A handwritten signature in cursive script that reads "Jimena Diaz Leiva".

Jimena Diaz Leiva, PhD  
Science Director, Center for Environmental Health