

TITLE 17. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR EMISSIONS OF HEXAVALENT CHROMIUM FROM CHROME PLATING AND CHROMIC ACID ANODIZING OPERATIONS.

The Air Resources Board (ARB/Board) will conduct a public hearing at the time and place stated below. The Board will consider the adoption of amendments to the Hexavalent Chromium Airborne Toxic Control Measure (ATCM) - Decorative and Hard Chrome Plating and Chromic Acid Anodizing Facilities (Chrome Plating ATCM). This regulation is being considered to integrate the federal standards for chrome plating and chromic acid anodizing tanks promulgated January 25, 1995, with the existing State requirements for these operations.

DATE: May 21, 1998

TIME: 9:30 a.m.

PLACE: Air Resources Board
Board Hearing Room, Lower Level
2020 L Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board that will commence at 9:30 a.m., May 21, 1998, and may continue at 8:30 a.m., May 22, 1998. This item may not be considered until May 22, 1998. Please consult the agenda for the meeting that will be available at least 10 days before May 21, 1998, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact Ms. Lisa Jennings at (916) 327-5975 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area 14 days before May 21, 1998.

Proposed Actions and Sections Affected

The Air Resources Board staff is proposing to amend section 93102, Subchapter 7.5, Chapter 1, Part III, Title 17, California Code of Regulations -- Hexavalent Chromium Airborne Toxic Control Measure (ATCM) - Decorative and Hard Chrome Plating and Chromic Acid Anodizing Facilities (Chrome Plating ATCM). Chrome plating operations convert hexavalent chromium in solution to a chromium metal layer by electroplating. "Decorative" chrome plating involves the application of a thin layer of chromium metal that gives a decorative and protective finish to parts such as faucets and car bumpers. "Hard" chrome plating involves the application of a thicker layer of chromium metal that provides a hard, smooth surface to machine parts such as crankshafts and printing rollers. Chromic acid anodizing creates a wear-and-corrosion-resistant surface.

Hexavalent chrome is emitted into the air when electric current is applied to the plating or anodizing bath. The ARB and the Office of Environmental Health Hazard Assessment (OEHHA)¹ have determined that sufficient evidence exists to demonstrate the carcinogenicity of hexavalent chromium in humans. The International Agency for Research on Cancer (IARC) concurs with this finding.

Health and Safety Code sections 39658 and 39666 authorize the ARB to establish airborne toxic control measures for toxic air contaminants in accordance with specified criteria. Further, ARB may adopt regulations that 1) impose monitoring requirements, establish procedures for permits, and take any other action that may be necessary to establish, implement, and enforce programs for the regulation of hazardous air pollutants listed as toxic air contaminants pursuant to subdivision (b) of section 39657, and 2) meet the requirements of section 112(l) of the federal Clean Air Act (42 U.S.C. Secs. 7412(l)) and the guidelines and regulations adopted by the United States Environmental Protection Agency (U.S. EPA) pursuant to those sections. In adopting such regulations, the ARB is required to ensure that the requirements of the federal act are met and use the definitions contained in section 112(a) of the federal Clean Air Act (42 U.S.C. Sec. 7412(a)).

Informative Digest of Proposed Action

The purpose of the proposed amendments is to integrate California's chrome plating requirements with the federal chrome plating requirements. The federal chrome plating requirements are contained in 40 CFR Part 63, Subpart N--National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (Chrome Plating NESHAP). The proposed amended Chrome Plating ATCM is a hybrid of the existing Chrome Plating ATCM and the federal Chrome NESHAP.

Staff is proposing to amend the Chrome Plating ATCM to include a specific applicability statement and to expand the applicability to trivalent chrome operations, in addition to the currently regulated hexavalent chrome operations. The emission limitations for hard chrome operations remain unchanged. Staff is proposing to amend the emission limitations for decorative chrome and chromic acid anodizing operations by replacing them with emissions limitations from the Chrome Plating NESHAP. We are also proposing to add to the Chrome Plating ATCM performance test requirements, inspection and maintenance requirements, monitoring provisions, recordkeeping and reporting requirements, and requirements for source operators to request alternative provisions.

The proposed amended Chrome Plating ATCM differs from the federal Chrome NESHAP in several areas. The most significant differences are the alternative emission limitations for hard

¹ The Office of Environmental Health Hazard Assessment is the State agency responsible for developing health risk assessment methodologies. These functions were previously performed under the California Department of Health Services (DHS).

chrome platers and the streamlined recordkeeping and reporting requirements. Despite these differences, we believe that the U.S. EPA should find the proposed amended Chrome Plating ATCM, described below, equivalent to the Chrome Plating NESHAP. A plain English summary of the requirements of the existing Chrome Plating ATCM, the federal Chrome NESHAP, and the proposed amended Chrome Plating ATCM are contained in Attachment B, Table 1 in the Staff Report.

Replacing the Chrome Plating NESHAP with the Chrome Plating ATCM

We are requesting adoption of this regulation as an emergency regulation so that the proposed amended Chrome Plating ATCM becomes effective upon filing. Two regulations currently affect chrome plating operations in California. The Chrome Plating NESHAP requires similar emissions control and extensive monitoring, recordkeeping, and reporting. The proposed amended Chrome Plating ATCM integrates the federal requirements in a format that is easier to read than the Chrome Plating NESHAP. The sources subject to the Chrome Plating ATCM have already achieved the emission reductions.

The proposed amended Chrome Plating ATCM will not automatically replace the Chrome Plating NESHAP. The federal Clean Air Act, amended in 1990, adds new section 112(l) that provides a mechanism to allow States to substitute their own toxic rules or programs for the corresponding NESHAP. U.S. EPA promulgated guidance for seeking delegation of authority to implement a State program or regulation in a rulemaking set forth in 40 CFR part 63, subpart E. The subpart E guidance requires States to seek approval from U.S. EPA and allows U.S. EPA 180 days to approve or disapprove the request. It is U.S. EPA's position that they can only act on formally adopted regulations and not on draft or proposed regulations. Once the proposed amended Chrome Plating ATCM becomes State law, we can submit a complete package to the U.S. EPA for their approval. Therefore, the earliest the amended Chrome Plating ATCM could formally replace the federal Chrome Plating NESHAP is likely to be in early 1999.

Effect on Small Businesses

The Executive Officer has determined, pursuant to Government Code section 11346.5(a)(3)(B), that this regulation will positively affect small business by allowing existing hard chrome platers to continue to meet the emission limitations from the existing Chrome Plating ATCM rather than the emission limitations in the Chrome Plating NESHAP. Small business, engaged in decorative or trivalent chrome plating, will be subject to new requirements. However, these requirements are identical to the requirements contained in the federal Chrome Plating NESHAP which these businesses are already require to meet. The proposed amendments would allow chrome platers and anodizers to demonstrate compliance using existing, valid performance tests. The amendments also greatly clarify and simplify many federal requirements. The regulation is much more user-friendly than the federal Chrome NESHAP. A plain English summary of the proposed amended Chrome Plating ATCM requirements is contained in Attachment B, Table 1, in the Staff Report.

Mandates on Local Agencies or School Districts

The State action to amend the existing Chrome Plating ATCM does not result in any new state mandates on school districts (Government Code section 11346.5(a)(5)). However, it will result in new mandates on State and local air pollution control agencies. State and local agencies will be required to implement and enforce several new requirements added to the proposed amended Chrome Plating ATCM. These new requirements were added because U.S. EPA indicated that they were needed for U.S. EPA to find the Chrome Plating ATCM equivalent to the Chrome Plating NESHAP. In most cases, the U.S. EPA, not the State and local air pollution control agencies, is required to implement and enforce the Chrome Plating NESHAP. However, sources are required to comply with both the State and federal regulations. The only way to consolidate the State ATCM and the federal NESHAP, so that sources will have to comply with only one regulation, is for the State to incorporate the requirements that U.S. EPA believes necessary for equivalency into the State ATCM.

Costs and Savings to Public Agencies

The Executive Officer has determined that the proposed regulation will create neither costs nor savings, as defined in Government Code section 11346.5(a)(6), to any school district. The proposed regulation will create some new costs to State and local air pollution control agencies. These costs are associated with implementing and enforcing new requirements added to the Chrome Plating ATCM to address U.S. EPA's equivalency issues, including reviewing plans and reports; inspecting sources to determine compliance with new work practice, recordkeeping, and reporting requirements; and tracking periodic report submittal. However, the proposed amended Chrome Plating ATCM will result in savings to the State and local air pollution control agencies. These regulatory agencies will review source compliance, records, and reports based on the proposed amended Chrome Plating ATCM rather than on two regulations or on the Chrome Plating NESHAP alone. The recordkeeping and reporting requirements are more streamlined and easier to understand in the proposed amended Chrome Plating ATCM than in the Chrome Plating NESHAP.

Economic Impacts on Businesses and Persons Affected

The Executive Officer has determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states (Government Code section 11346.5(a)(8)). The new federal requirements will be applicable nationwide. Therefore, our amendments result in no new requirements.

The Executive Officer has determined that no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected will result from the proposed action. Any cost impacts are derived from the federal requirements,

which sources must comply with whether or not they are integrated into the State regulation. We anticipate time and effort savings to result from the successful integration of the federal requirements into the State regulation and its subsequent approval by the U.S. EPA as the substitute for the Chrome Plating NESHAP.

The Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within California, or the expansion of businesses currently doing business within California (Government Code section 11346.5(a)(10)). A detailed assessment of the economic impacts of the amended regulatory action can be found in the Staff Report.

Finally, the Executive Officer has determined that the amended regulation will not have a significant effect on housing costs (Government Code section 11346.5(a)(11)). Further, the Executive Officer believes that the new federal requirements imposed by the Chrome Plating NESHAP will not have a significant effect on housing costs.

Consideration of Alternatives

When adopting these regulations, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulations are amended or would be as effective and less burdensome to affected public and private persons than the amended action.

Availability of Documents and Contact Person

The Board staff has prepared a Staff Report that includes the Initial Statement of Reasons for the proposed actions, including a summary of the environmental impacts of the proposal. Copies of the Staff Report and the full text of the proposed regulations are available and may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, California 95814, (916) 322-2990. Further inquiries regarding the proposed regulations should be directed to Ms. Lisa Jennings, Stationary Source Division, Technical Analysis Section, at (916) 327-5975, 2020 L Street, Sacramento, California 95814.

Submittal of Comments

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, May 20, 1998, or received by the Clerk of the Board at the hearing.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board

encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the amended regulations.

Statutory Authority and Hearing Procedures

These regulations are amended under the authority granted in Health and Safety Code sections 39600, 39601, 39650, 39655, 39656, 39658, 39659, 39665, and 39666. These regulations are amended to implement, interpret, and make specific sections 39650, 39655, 39656, 39658, 39659, and 39666 of the Health and Safety Code.

The public hearing will be conducted in accordance with the California Administrative Procedure Act: Title 2, Division 3, Part 1, Chapter 3.5 of the Government Code, beginning with section 11346.

Following the public hearing, the Board may adopt the amendments to the regulations as proposed or with nonsubstantial or grammatical modifications. The Board may also adopt the amended regulations with other modifications if the modifications are sufficiently related to the originally proposed text; i.e. the public must be adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Air Resources Board Public Information Office, 2020 L Street, Sacramento, California, 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

Michael Kenny
Executive Officer

Date: