

Third Notice of Public Availability of Modified Text

Proposed Amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations

Public Hearing Date: January 26-27, 2023
Second Public Hearing Date: May 25, 2023
Public Availability Date: October 16, 2023
Deadline for Public Comment: October 31, 2023

At its January 27, 2023, public hearing, the California Air Resources Board (CARB or Board) considered staff's proposed amendments to California Code of Regulations, title 17, sections 93102, 93102.1, 93102.2, 93102.3, 93102.4, 93102.5, 93102.6, 93102.7, 93102.8, 93102.9, 93102.10, 93102.11, 93102.12, 93102.13, 93102.14, 93102.15, and 93102.16. The proposed amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations (Proposed Amendments) are needed to further reduce the exposures and health impacts from hexavalent chromium emitted from chrome plating facilities (which include decorative and hard chrome plating and chromic acid anodizing facilities) in communities near these sources.

As directed by the Board at the January 27, 2023, hearing, staff proposed to provide an alternative phase out pathway for decorative plating facilities who elect to continue to use hexavalent chromium in their chrome plating processes after January 1, 2027. The alternative phase out pathway will allow decorative plating facilities to delay the phase out of the use of hexavalent chromium by complying with building enclosure requirements to reduce fugitive emissions starting in 2026 until the phase out on January 1, 2030. Decorative chrome plating facilities that do not choose the alternative phase out pathway must phase out hexavalent chromium by January 1, 2027, as previously required by the Proposed Amendments. On March 27, 2023, CARB issued a "Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" (First 15-Day Changes). The comment period for the First 15-Day Changes opened on March 27, 2023, and closed on April 11, 2023. Twenty-two written comments were received during the first 15-day comment period.

On April 26, 2023, CARB issued a "Second Notice of Public Availability of Additional Information" (Second 15-Day Changes). The Second 15-Day Changes added information to the rulemaking record but did not propose any modifications to the regulatory language. The comment period for the Second 15-Day Changes opened on April 26, 2023, and closed on May 11, 2023. Sixteen written comments were received during the Second 15-day comment period.

At the conclusion of the May 25, 2023, hearing, the Board adopted Resolution 23-16, which in part directed the Executive Officer to determine if additional sufficiently-related modifications to the Regulation were appropriate. The Resolution allows the Executive Officer to (1) Revise the adopted regulations with grammatical and other non-substantial changes, indicate them as such, and add them to the rulemaking record; (2) Determine that additional sufficiently-related substantial modifications are appropriate, in which case the modified regulatory language shall be made available for public comment, with any additional supporting documents and information, for at least 15 days as required by Government Code section 11346.8, and the Executive Officer shall consider written comments submitted during the public review period and make any further modifications that are appropriate available for public comment for at least 15 days; or (3) Rather than take action on the proposed modifications, the Executive Officer may instead present the modifications, and any appropriate further environmental review associated with the modifications, to the Board for further consideration, if the Executive Officer determines further Board consideration is warranted.

On August 9, 2023, CARB submitted the rulemaking package to the Office of Administrative Law (OAL) for review and released the Final Statement of Reasons (FSOR). The Resolution, FSOR, and all other regulatory documents for this rulemaking are available online at the following [CARB website: https://ww2.arb.ca.gov/rulemaking/2023/chromeatcm2023](https://ww2.arb.ca.gov/rulemaking/2023/chromeatcm2023)

On September 20, 2023, CARB withdrew the rulemaking package from OAL. CARB is making changes to the proposed regulatory text. This notice describes modifications made to the originally proposed regulatory language. The text of the modified regulatory language is shown in Appendix A. The originally proposed regulatory language is shown in ~~striketrough~~ to indicate deletions and underline to indicate additions. Modifications made as of the first 15-day changes released on March 27, 2023, are shown in ~~double striketrough~~ and double underline to show deletions and additions, respectively. The second 15-day released on April 26, 2023, did not modify the regulatory language. New deletions and additions to the proposed language that are made public with this notice are shown in ~~**bold italicized double striketrough**~~ and **bold italicized double underline** format, respectively.

The FSOR will be amended with responses to all timely-filed comments received during the noticed comment period. The Administrative Procedure Act requires that staff respond to comments received regarding all noticed changes. Therefore, staff will only address comments received during this 15-day comment period that are responsive to this notice, or the changes detailed in Appendix A.

Summary of Proposed Modifications

The following summary does not include all modifications to correct typographical or grammatical errors, changes in numbering or formatting, nor does it include all the non-substantive revisions (e.g., commas, spacing, and capitalization).

1. In section 93102.3(a), staff made the following revisions:
 - a. In subsection (24), staff updated the spelling of the previously struck word "anyhyride" to "anhydride" so that the text being struck is consistent with the current California Code of Regulations (CCR).
 - b. In subsection (47), staff changed the abbreviation of ampere from "A" to "Amp" for consistency and to improve clarity.

2. In section 93102.4, staff made the following revisions:
 - a. To clarify applicability, staff revised the first paragraph by removing the phrase “except for those Facilities that only operate enclosed hexavalent chromium plating tank”. The purpose of this revision is to make clear that Facilities that only operate enclosed hexavalent chromium plating tanks are subject to that section’s requirements for facilities that use hexavalent chromium. This pre-existing language text should have been removed from the regulation when regulatory edits were made to clarify the intent of the provision to have all chrome plating facilities subject to the ATCM.
 - b. In Table 93102.4 of subsection (c)(1)(B), staff amended the Emission Limitation column where Sensitive Receptor Distance is > 330 feet and Annual Permitted Ampere-Hours is > 50,000 and ≤ 500,000 (the fifth row and third column) with the phrase “as measured after Add-on Air Pollution Control Device(s)” to clarify where the emission limitation is measured.
3. In section 93102.5, staff made the following revisions:
 - a. In subsection (c), staff clarified the implementation date for housekeeping requirements by adding the phrase “Beginning January 1, 2024, the following housekeeping practices shall be implemented:”. The purpose for adding the date is to clarify when the provision shall be effective.
4. In section 93102.6, staff made the following revisions:
 - a. In subsection (a)(1)(A), staff added “(for Facilities using Trivalent Chromium Plating prior to January 1, 2024) or section 93102.13(d)(2)(B) (for Facilities changing to Trivalent Chromium Plating on or after January 1, 2024)” to the end of the sentence to improve clarity as to which reporting requirements apply to which facilities. Staff also added commas and deleted an “and” to improve grammar and syntax, as well as added the phrase “complying with” to clarify the requirements of this subsection.
 - b. In subsection (a)(1)(B), staff added “(for Facilities using Trivalent Chromium Plating prior to January 1, 2024) or section 93102.13(d)(2)(A) (for Facilities changing to Trivalent Chromium Plating on or after January 1, 2024)” to the end of the sentence to improve clarity as to which reporting requirements apply to which facilities. Staff also added commas to improve the grammar, rephrased the recordkeeping and reporting requirements, and added the phrase “complying with” to clarify the requirements of this subsection.
 - c. In subsection (b)(2), staff removed the word “only” and removed the phrase “except for the requirements set forth in section 93102.4” to clarify the applicability requirements for facilities that have enclosed hexavalent chromium plating tank(s). This text should have been removed from the regulation as edits were made because it was pre-existing language. Removing this text will clarify the intent of the provision to have all chrome plating facilities subject to the ATCM.
 - d. Staff removed subsection (b)(3). The subsection (b)(2) amendments eliminated the need for subsection (b)(3) because the information contained in both subsections, although worded differently, has the same meaning.
 - e. In section 93102.7, staff made the following revisions:

- f. In subsection (a)(1), staff added the phrase “and section 93102.4(f)(2)” to the end of the sentence to clarify the source test emission limitation requirements.
- g. In section 93102.9, staff made the following revisions:
 - a. In subsections (d)(1) and (2), Appendix 8 was updated to Appendix 7 to be consistent with the renumbering of appendices and correctly reference Appendix 7 – Surface Tension Procedure for a Stalagmometer.
- h. In Section 93102.13, staff made the following revisions:
 - a. In subsection (b), staff deleted the date “April 24, 2008” from prior proposed versions of the regulatory text and added “180 days after the effective date of this rule” so the language is consistent with what is printed in the current CCR. The deleted date “April 24, 2008” is 180 days after the effective date of the rule, October 24, 2007.
 - b. In subsection (d)(1)(A), staff deleted the date “November 24, 2007” from prior proposed versions of the regulatory text and added “30 days after the effective date of this rule” so the language is consistent with what is printed in the current CCR. Also, staff added a comma after the date “July 1, 2024,” for grammatical accuracy.
- i. In section 93102.16 Appendix 1, staff made the following revisions:
 - a. In subsection 3.b. staff updated the email address from chrome@arb.ca.gov to chromeplatingatcm@arb.ca.gov to be consistent with the email address listed on CARB’s website.
 - b. In subsection 4.a. staff replaced the broken webpage link “<https://www.capcoa.org/airdistricts/>” with the following link: <https://ww2.arb.ca.gov/california-air-districts>.
- j. In the Authority and Reference citations of sections 93102.1, 93102.2, 93102.3, 93102.6, and 93102.9, staff ensured accurate spacing between “Safety” and “Code” when citing the Health and Safety Code.
- k. In the Authority and Reference citations of sections 93102.11, 93102.12, and 93102.14, staff ensured accurate spacing between “41511,” and “Health and Safety Code”.
- l. In the Authority and Reference citations, staff removed the commas preceding “and” to align the citations with what is printed in the current CCR.
- m. Staff updated the titles of all sections by adding a period after section number to align the section titles with what is printed in the current CCR.

Agency Contacts

Inquiries concerning the substance of the proposed regulation may be directed to Greg Harris, Manager, Toxics Control Section, at (279) 208-7540 or Greg.Harris@arb.ca.gov or to chromeplatingatcm@arb.ca.gov.

Public Comments

Written comments will only be accepted on the modifications identified in this Notice. Comments may be submitted by postal mail or by electronic submittal no later than the due date to the following:

Postal mail: Clerks' Office, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <https://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code § 7920.000 et seq.), your written and verbal comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

In order to be considered by the Executive Officer, comments must be directed to CARB in one of the two forms described above and received by CARB no later than the deadline date for public comment listed at the beginning of this notice. Only comments relating to the above-described modifications to the text of the regulations shall be considered by the Executive Officer.

If you need this document in an alternate format or another language, please contact the Clerks' Office at (916) 322-5594 or by facsimile at (916) 322-3928 no later than five (5) business days from the release date of this notice. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Si necesita este documento en un formato alterno u otro idioma, por favor llame a la oficina del Secretario del Consejo de Recursos Atmosféricos al (916) 322-5594 o envíe un fax al (916) 322-3928 no menos de cinco (5) días laborales a partir de la fecha del lanzamiento de este aviso. Para el Servicio Telefónico de California para Personas con Problemas Auditivos, ó de teléfonos TDD pueden marcar al 711.

California Air Resources Board



Steven S. Cliff, Ph.D.,
Executive Officer

Date: October 16, 2023

Attachment

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see [CARB's website](http://www.arb.ca.gov) (www.arb.ca.gov).