

Executive Order R-23-005

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

Whereas, on January 27, 2023, and May 25, 2023, the California Air Resources Board (CARB or Board) conducted public hearings to consider the Proposed Amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations (Proposed Amendments), as set forth in Appendix A to the Initial Statement of Reasons;

Whereas, in connection with the Proposed Amendments, CARB prepared an Environmental Analysis (EA), which was originally released to the public on November 29, 2022, for a 45-day public comment period from December 1, 2022, through January 17, 2023;

Whereas, following the public hearing on January 27, 2023, staff considered comments submitted during the public review period and hearing, and whether to make any additional appropriate conforming modifications available for public comment for at least 15 days, pursuant to Government Code section 11346.8;

Whereas, modified regulatory language and supporting documentation was circulated for a 15-day public comment period, with the changes to the originally proposed text clearly indicated, according to provisions of California Code of Regulations, title 1, section 44 and Government Code section 11340.85, from March 27, 2023, through April 11, 2023;

Whereas, further supporting documentation was circulated for a second 15-day public comment period, according to provisions of California Code of Regulations, title 1, section 44 and Government Code section 11340.85, from April 27, 2023, through May 11, 2023;

Whereas, written comments were received during the initial 45-day comment period and supplemental 15-day comment periods, and those comments were considered by the Executive Officer;

Whereas, on May 25, 2023, the Board conducted the second public hearing to consider the proposed amendments to the Airborne Toxic Control Measure for Chromium Electroplating and Chromic Acid Anodizing Operations, as it was set forth in Final Regulation Order which was posted by CARB in conjunction with the Final EA on May 19, 2023, and Response to Comments on the Draft EA, posted on May 24, 2023;

Whereas, pursuant to CARB's certified regulatory program regulations set forth at California Code of Regulations, title 17, sections 60000 through 60008, certified by the Secretary of the California Natural Resources Agency pursuant to Public Resources Code section 21080.5, the Executive Officer presented the Final EA, along with the Response to EA Comments, to the Board for its consideration;

Whereas, following the public hearing on May 25, 2023, the Board adopted Resolution 23-16 in which the Board certified the Final EA as being completed in compliance with CARB's certified regulatory program to meet the requirements of CEQA, and in consideration of the

Final EA, the Response to EA Comments, and the entirety of the record, the Board adopted the Findings and Statement of Overriding Considerations and approved for adoption amendments to sections 93102 through 93102.16, California Code of Regulations, title 17;

Whereas, Resolution 23-16 directed the Executive Officer to make any additional conforming modifications deemed appropriate available for public comment, with any additional supporting documents and information, for a period of at least 15 days. The Executive Officer was directed to consider written comments submitted during the public review period and make any additional appropriate conforming modifications available for public comment for at least 15 days, and to take final action to adopt the regulation after addressing all appropriate modifications or present the regulation to the Board for further consideration if warranted;

Whereas, CARB submitted the final rulemaking package to the Office of Administrative Law (OAL) on August 9, 2023, for review in accordance with the California Administrative Procedure Act (APA);

Whereas, CARB withdrew the rulemaking from OAL on September 20, 2023, per Government Code section 11349.3, subdivision (a);

Whereas, modified regulatory language was circulated for a third 15-day public comment period, with the changes to the originally proposed text clearly indicated, according to provisions of California Code of Regulations, title 1, section 44 and Government Code section 11340.85, from October 16, 2023, through October 31, 2023;

Whereas, written comments were received during the third 15-day comment period and those comments were considered by the Executive Officer; and

Whereas, staff determined that for the proposed modifications, CARB can rely on the environmental analysis prepared under its certified regulatory program included in the Final EA for the Proposed Amendments, as certified by the Board in Resolution 23-16. As explained in the attachment to Executive Order R-23-005, no additional environmental review is required because the record evidence shows that the modifications will not result in new significant adverse environmental impacts, or a substantial increase in severity of previously identified significant adverse impacts, or new information of substantial importance;

Now, Therefore, It Is Ordered that the recitals and findings contained in Resolution 23-16 are incorporated herein.

It Is Further Ordered that sections 93102 through 93102.16, California Code of Regulations, title 17, are adopted as set forth in the "Final Regulation Order" attached to this Order.

It Is Further Ordered that the adopted regulatory text may be further revised with non-substantial or grammatical changes, which will be added to the rulemaking record and indicated as such.

Executed this 10th day of November, 2023 at Sacramento, California.



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