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Via Email

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South Coast Air Quality Management District
21865 East Copley Drive
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RE: Proposed Rule 1480 –Toxic Metal Air Emission Monitoring

Dear Min, Dan, Susan and Neil -

Following the Working Group Meeting #7 on August 6, the Metal Finishing Association of California [MFASC] would like to provide additional written comments highlighting the key issues we have identified with Proposed Rule 1480, Air Toxic Metals Monitoring.

MFASC continues to have significant concerns with PR 1480. The association members and representatives have raised these concerns in the workshops, and MFASC submitted a substantive comment letter on March 22.

As is clear from the comments and requested revisions that follow, the regulation as currently drafted would provide the district with unfettered authority and discretion, without clear criteria for key district decisions, that would enable the district to easily designate every facility as a Potentially Significant Facility [PSF], subjecting them to expensive and onerous requirements to place monitors, frequently collect and analyze samples, and submit reports.

In addition, the specific costs remain unidentified and potentially extremely significant, especially when consideration is given to the new costs and burdens on facilities working to comply with PAR 1469.

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We urge the district to address and resolve these issues prior to the presentation of the rule to the district Governing Board for adoption. Until the issues are resolved, MFASC is not in a position to support the new rule.

The specific provisions of the draft regulation, and our concerns, follow here:

Initial notice – Subdivision (d) (1) – the regulation must set forth clear criteria for important decisions the district will be making. The text must clearly state what is considered “*contributing*” and what is considered “*emitting a substantial amount*” as these are the determinations that trigger the initial notice.

The regulation must include a provision requiring the district to provide a facility, within the initial notice, with information on the process, timeframes, and available options.

In addition, the regulation must require the district to notify the facility that it is monitoring and the potential sources of emissions that are being monitored.

Finally, yet importantly, the regulation must include a provision requiring the district to inform the facility of the information that is serving as the basis for the initial notice, together with a provision enabling the facility to address and potentially resolve the basis for the notice as an alternative to potentially being designated a PSF.

Compliance with Initial Notice – Subdivision (d) (2) – it must be clear in subdivision (A) that a facility will not be required to perform source testing. It should be clear in subdivision (C) that the records to be provided are for the metals addressed by this rule and not any toxic air contaminants.

Notice of Findings – Subdivision (d) (3) – the regulation must require the district to provide facilities with the information that will enable them to respond to the notice of findings. The text must state that the notice shall include all of the data that the district has, including sampling results from all other sources of emissions.

In addition, the regulation must provide that, if the district decides to proceed with a notice of findings, it shall do so no later than 6 months following the issuance of an initial notice.

Notice of Findings - Subdivision (d) (5) – the regulation must provide additional time for a facility to provide a response to the notice of findings. Even with a potential 30 –day extension, the requirement that a facility respond in writing within 30 days of the Notice of Findings provides insufficient time for the facility to review the district’s information and prepare its response.

Written List – Subdivision (d) (6) – the regulation must clearly state what is considered “*enforceable measures*” that permanently reduce emissions.

Designation of a Potentially Significant Facility [PSF] – Subdivision (d) (8) – the regulation must set forth clear criteria for the district to designate a facility as a PSF.

Authorizing the district to make a designation “*based on information, including but not limited to...*” is vague and ambiguous, provides unlimited discretion to the district, fails to set forth prioritization of information, and does not provide for weighing of information.

This is further complicated by the definition of a PSF in subdivision (a) (10) as facility the district has determined “*is likely to either exceed or has exceeded the Significant Risk Level for any Sensitive Receptor location...*”. The regulation must clearly state what is considered “*likely.*” Subdivisions (d) (8) and (a) (10) must be consistent.

Notification of Designation or Nondesignation – Subdivision (d) (9) – the regulation must provide a reasonable deadline for the district to notify the facility that a determination has been made to designate it as a PSF or not to designate it as a PSF.

In addition, the list of metals and values must be listed in specific subdivision (C).

Monitoring and Sampling Plan – Subdivision (e) (2) – the regulation must set forth clear criteria for a decision to approve or disapprove a draft monitoring and sampling plan, rather than the merely stating that the decision “*will be based on information submitted...*”.

The regulation must more clearly state in subdivision (A) that the district shall provide a facility with a deficiency letter that shall identify each deficiency when it disapproves a draft monitoring and sampling plan.

Metal TAC Monitoring Requirements – Subdivision (f) (4) – the regulation must clearly state that the facility shall not miss a valid sample for more than one day over a consecutive 30 *calendar* day period, so that the requirement is not misunderstood as referring to missing a valid sample over a 30 *sample* day period.

Metal TAC Monitoring Requirements – Subdivision (f) (7) – the regulation must provide the opportunity for a hexavalent chromium sample to be submitted for analysis more than one calendar day after collection when the shipment to a laboratory will take a longer period of time. The regulation must also provide more than one business day for a facility to provide a sample to the district upon request.

It would also be helpful if the District would provide the association with a list of the laboratories it has identified that conduct hexavalent chromium sample analysis.

It is foreseeable that the requirement that valid samples or sample extracts be retained for one year will create a significant compliance cost for facilities.

Alternative Monitoring and Sampling - Subdivision (g) – the regulation must list the specific sampling methods that the district will utilize.

Reduced Monitoring and Sampling Frequency – Subdivision (h) (1) (A) – the regulation must clearly state that both the 30 day rolling average and the 180 consecutive day calculation are 30 and 180

calendar days, so that the periods are not misunderstood as referring to sampling days.

Reduced Monitoring and Sampling Frequency – Subdivision (h) (1) (B) – the regulation must include a maximum period of years after which a facility that is ineligible to modify its sampling schedule may once again submit a request to reduce the frequency of monitoring and sampling. Otherwise, the ineligibility would continue forever.

Request to Discontinue Metal TAC Monitoring – Subdivision (j) – the regulation in subdivisions (1) and (1) (A) must clearly state that the 180 consecutive day monitoring and sampling period is calendar days, so that the period is not misunderstood as referring to sampling days.

The regulation in subdivision (1) (C) must not require a description of the enforceable measures in those situations where monitoring results demonstrated low emission levels.

The regulation in subdivision (3) must provide a maximum period of time for the district to notify a facility as to whether the request to discontinue monitoring has been approved or disapproved.

Costs –Appendix 1 – while we appreciate the inclusion of a preliminary and incomplete Appendix 1, it remains critical for the industry to be able to have information on the district’s cost estimates in sufficient advance time that will allow the impacted facilities to review the information and provide a response.

The cost estimates must address every cost to be borne by facilities for each potential compliance pathway including but not limited to the preparation of the response to the district’s notification that they are a Potentially Significant Source, the preparation of an air monitoring plan, the performance of sampling and analysis, and the review of air monitoring data.

Multiple Sources of Emissions – new provision - as mentioned near the conclusion of the workshop, the regulation must include provisions that address the situations where there are multiple sources of emissions.

Context – PAR 1469

It remains important to recognize that metal finishing facilities are now endeavoring to meet the significant new requirements and related compliance costs now that the district has adopted Proposed Amended Rule 1469 (PAR 1469). This follows almost two years of meetings and negotiations.

The rule addresses hexavalent chromium containing tanks not previously known to be sources of hexavalent chromium emissions and includes requirements such as building enclosures, best management practices, and housekeeping provisions that minimize the release of fugitive emissions from chromium electroplating and chromic acid anodizing operations.

PAR 1469 also has provisions to ensure continuous proper operation of point source pollution controls and contingency provisions to add pollution controls for a building enclosure for any facility that

repeatedly fails to comply with the point source emission requirements or fails to shut down a tank after not passing a test to evaluate the collection efficiency of a tank with pollution controls.

The District estimates that small decorative plating facilities will experience an average impact of 3.4% to 7.4% of their revenues, and that this will increase dramatically if chemical fume suppressants are not certified and they are required to install add-on pollution controls. The district also projects that approximately 37 to 63 jobs will be lost each year.

Thank you for the consideration of these and the other issues that our association and its members are raising in this rulemaking. MFASC and our representatives look forward to continued discussions on the PR 1480 with the District.

Sincerely,

Justin Guzman

Justin Guzman, MFASC Executive Officer

Jerry Desmond

Jerry Desmond, MFASC Advocate