CALIFORNIA METALS COALITION

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Submitted via email: DTSC_MSfencelinemonitoring@dtsc.ca.gov
Nicole Hinton, Senior Environmental Scientist, Office of Criminal Investigations
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RE: California Metals Coalition (CMC) Comments on August 18th Fence-line Monitoring at Metal Shredding Sites Pre-Regulatory Workshop

Background

California is home to approximately 4,000 advanced metal manufacturing facilities, employing over 315,000 Californians. 8 out of 10 employees in the metalworking sector reside in economically disadvantaged communities. The average metals industry salary is $80,000/year, including health benefits, which means a job in the metal manufacturing sector is often the only path to the middle class for many of these Californians.

California metal manufacturers use recycled metal (ex: aluminum, brass, iron and steel) to make parts for medical devices, aerospace, clean energy technologies, electric cars, biotech apparatuses, national defense, agriculture, infrastructure, construction machinery, household appliances, food processing and storage, movement of water, and millions of other products demanded by Californians.

Metal shredding operations are a vital part of California's manufacturing chain. Californians discard more metal than any other state in the US, and recycling metal at high volumes requires local metal shredders. Metal shredders are necessary for resource conservation, environmental impact reduction, lower energy costs, community safety due to illegal dumping, and cost savings versus metal mining.

Comments on August 18th Fence-line Monitoring at Metal Shredding Sites Pre-Regulatory Workshop

Comment #1: Unsupported Addition of "Dirt" and "Debris" for AB 2851 Implementation:

Slide #9 of the August 18th presentation introduces the discussion of proposed hazardous waste constituent monitoring requirements. As part of the description, the DTSC presentation references LFM (light fibrous material) on Slide #8. In Assembly Bill 2851, the law mentions multiple times that "*The department shall collect and analyze light fibrous material at the fence lines to determine the potential for release of hazardous waste*."

But the DTSC presentation goes further than the bill and proposes the inclusion of "dirt" and "debris" as part of the law's requirements. Throughout the 2024 legislative session, AB 2851 was amended and debated eight times, and there is no mention of "dirt" and "debris" in any of the language. Please see the following descriptions of each version of AB 2851:

- **February 15, 2024**: Assembly Bill 2851 was first introduced into the state Legislature on February 15, 2024. The text of the bill included 1,917 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **March 21, 2024**: Assembly Bill 2851 was amended on March 21, 2024, and the text of the bill included 1,421 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **April 4, 2024**: Assembly Bill 2851 was amended on April 4, 2024, and the text of the bill included 1,452 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **May 16, 2024**: Assembly Bill 2851 was amended on May 16, 2024, and the bill of the text included 1,455 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **July 3, 2024**: Assembly Bill 2851 was amended on July 3, 2024, and the bill of the text included 1,315 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **August 23, 2024**: Assembly Bill 2851 was amended on August 23, 2024, and the bill of the text included 1,264 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **August 27, 2024**: Assembly Bill 2851 was amended on August 27, 2024, and the bill of the text included 1,240 words. None of the text included "dirt" or "debris" in the bill, as it was reviewed and debated by elected legislators.

- **September 5, 2024**: Assembly Bill 2851 was enrolled on September 5, 2024, and the bill of the text included 1,240 words. None of the text included "dirt" or "debris" in the bill.

- **September 27, 2024**: Assembly Bill 2851 was signed by Governor Newsom and Chaptered into state law on September 27, 2024, and the bill of the text included 1,240 words. None of the text included "dirt" or "debris."

If the state Legislature, or bill's author, had any intention of including "dirt" or "debris" in the statute, it would have been included in at least one version of the bill, and certainly it would have been in the chaptered version of the law as signed by the governor.

DTSC's proposed addition of "dirt" and "debris" is unfounded and should be removed.

Comment #2: Additional Reasons for "Dirt" and "Debris" to Be Removed from the Proposal

- Slide #13 introduces off-site monitoring requirements for "dirt" and debris." Metal shredding facilities are surrounded by public streets, truck traffic, industrial neighbors, port activities, and many other activities. These additional activities are potential sources of dirt and debris off-site, and surrounding a metal shredding operation. DTSC staff would not be able to distinguish dirt and debris from all other activities, and as a result should be removed from the proposal.

- Slide #10 states that "*Metal shredding sites shall write a report summarizing the observations and any results of the inspection and collection of LFM and/or dirt and debris*." AB 2851's primary purpose is to establish fence-line air quality monitoring at metal shredding facilities. Observations of LFM on the ground within 5 feet of the fence-line is acceptable, but should not include "dirt" or "debris."

Comment #3: Unclear Boundaries Beyond the Fence-Line for Violations

Slide #14 states that enforcement will occur when "*LFM or any dirt and debris deemed hazardous is observed off-site at the fence-line or at any location beyond the fence-line of the metal shredding site*." First and foremost, "dirt or debris" should be removed from the proposal as supported by previous comments. But just as important, stating that "any location" beyond the fence-line is subject to enforcement and violations for LFM is unreasonable since it could be interpreted as any distance (ex: inches, feet, miles). DTSC's proposal should include fence-line requirements, and not extend AB 2851 to any potential distance.

Comment #4: Web Platform and Notification by DTSC or Coordinated with Air Districts

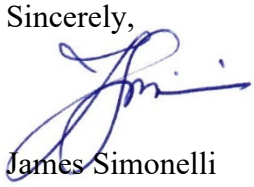
Slide #13 states the metal shredding site will establish and control a web-based platform for public notification. Under this proposal, the web-based platform will be created by each individual metal shredding facility, and maintained by each individual shredding facility, to report LFM.

DTSC should be creating this platform, and not the individual metal shredding facilities. Since the air districts are establishing public notification procedures, DTSC should consider coordinating with the local air districts on this task.

Conclusion

Thank you for the opportunity to provide written comments on DTSC's August 18, 2026 pre-rulemaking public workshop. I look forward to your responses, and to the next pre-rulemaking public workshop. If you want to contact me directly, please do not hesitate: james@metalscoaliton.com

Sincerely,



James Simonelli
Executive Director