CALIFORNIA METALS COALITION

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David Edwards, Ph.D.
Chief Deputy Director
Office of Environmental Health Hazard Assessment
1001 I Street
Sacramento CA 95814

Subject: California Metals Coalition comments on OEHHA's recommendations for implementation of AB 2851.

Dear Dr. Edwards:

The California Metals Coalition (CMC) appreciates the Office of Environmental Health Hazard Assessment's (OEHHA) willingness to share its preliminary thinking regarding the recommendations it will submit to air quality management districts (air districts) to support implementation of Assembly Bill 2851 (Bonta, 2024), which establishes a fenceline monitoring and public notification program for metal shredding facilities. We are writing to confirm our understanding of the scope of OEHHA's responsibility under the law, how OEHHA intends to approach development of health-based thresholds for airborne contaminants that will be subject to fenceline monitoring and public notification, and the process, timing, and manner by which OEHHA intends to convey its recommendations to the air districts. We understand that discussions are ongoing between OEHHA and the relevant air districts and that the details we are seeking to clarify are subject to change. Bearing that in mind, we request that OEHHA consider refining its initial conceptual approaches based on the recommendations presented in this letter.

1. OEHHA's methodology for developing provisional health reference values.

In our initial discussions regarding implementation of AB 2851, OEHHA indicated that it intends to focus its recommendations on the four metals identified in the law – lead, zinc, cadmium, and nickel.[1] OEHHA further indicated that its recommendations for health-based fenceline monitoring thresholds would rely on health guidance values already established for nickel, and the cancer and chronic non-cancer reference exposure values already established for cadmium,[2] and that it intends to recommend an acute non-cancer "provisional health reference value" (PHRV) for cadmium, and acute and chronic PHRVs for lead and zinc. CMC supports OEHHA's effort to recommend a single set of values for the subject metals to be used by air districts to establish the AB 2851-required thresholds, which will avoid the confusion and controversy that would result from different air districts deriving their own thresholds.

OEHHA indicated that it intends to use a methodology for developing PHRVs it created to support the California Air Resources Board's (CARB) Study of Neighborhood Air near Petroleum Sources (SNAPS) Program.[3] We are aware that OEHHA presented a draft of this methodology to the Scientific Review Panel on Toxic Air Contaminants (SRP) in October 2020 (draft methodology).[4] The transcript from this meeting indicates that the SRP members engaged OEHHA staff in an extensive discussion on this topic, expressing several concerns and recommending clarifications and changes to the draft methodology. For example, Dr. Stanton Glantz expressed concern about using oral exposure data to develop inhalation reference concentrations, which he described as "a very, very serious problem with what [OEHHA is] proposing."[5] In the course of this discussion, OEHHA staff acknowledged that route of exposure is particularly important for metals.[6] On the topic of OEHHA's proposal to use structural analogues where substance-specific data is lacking, Dr. Ahmad Besaratinia commented that "structurally similar compound (sic) do not necessarily exhibit similar properties" and

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[1] AB 2851 (Health and Safety Code § 41514.6(b)) requires air districts in which metal shredding facilities are located, in consultation with OEHHA to develop "threshold levels … for airborne contaminants, including, but not limited to, lead, zinc, cadmium, and nickel, at the fence lines of metal shredding facilities that are protective of air quality and public health. The threshold levels shall follow health guidance values adopted by the Office of Environmental Health Hazard Assessment, if available." Subsection (b)(2) also requires air districts to develop "threshold levels for community notification of potential adverse impact on public health based on the threshold values developed pursuant to paragraph (1)."

[2] Table 1, Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values, updated September 25, 2025: https://ww2.arb.ca.gov/sites/default/files/classic/toxics/healthval/contable09252025.pdf.

[3] California Air Resources Board and Office of Environmental Health Hazard Assessment, Study of Neighborhood Air near Petroleum Sources (SNAPS) Lost Hills, California Final Report, October 2025, Appendix F: https://ww2.arb.ca.gov/sites/default/files/2025-10/SNAPS_Lost_Hills_Report_Appendices.pdf.

[4] Office of Environmental Health Hazard Assessment, Selection And Adjustment Of Provisional Inhalation Health Guidance Values For Screening-Level Risk Assessment, SRP Discussion Draft, October 2020: https://ww2.arb.ca.gov/sites/default/files/2020-10/2020_SNAPS_HGVSelection_SRPDiscussion_ADA.pdf.

[5] Scientific Review Panel on Toxic Air Contaminants, Zoom Webinar transcript, October 9, 2020, page 138: 20-10-09 - ARB SRP MEETING.

[6] *Id.*, page 139.

some have "vastly different" biological effects.[7] Dr. Cort Anastasio stated that the PHRV development process should be able to identify "compounds where we really do need an animal study or we really do need a specific fully addressed REL [reference exposure level]."[8] The agencies and the SRP also received public comments proposing an alternative to development of PHRVs to "prevent potential misuse of provisional values for regulatory purposes."[9] OEHHA provided information to the SRP on related topics at subsequent SRP meetings, including a presentation titled "Expedited Development of Health Guidance Values" during the June 2023 SRP meeting.[10] However, we see nothing in the SRP meeting records indicating that OEHHA responded to SRP or public comments on the draft methodology, or that it presented a revised methodology to the SRP for final review and approval. CMC shares the SRP's concerns and believe they are applicable to OEHHA's approach to the development of health-based thresholds for airborne contaminants that will be subject to fenceline monitoring and public notification under AB 2851.

2. Intended application of OEHHA's PHRV methodology.

The 2020 draft methodology explicitly states that PHRVs are intended to be used in *screening risk assessments*,[11] and OEHHA stated during the October 2020 SRP meeting that these values "may change at a later date as newer or better information is available."[12] There was no indication at that time, or in any subsequent SRP discussion, that PHRVs would be used to establish regulatory standards or thresholds for enforcement of regulatory requirements, as OEHHA is currently contemplating for AB 2851 implementation. Rather, OEHHA staff offered the cautionary observations that "provisional values may carry a greater uncertainty than [health guidance values] derived through traditional procedures. And it's also possible that for some chemicals,

[7] *Id*., page 157.
[8] *Id*., page 168.
[9] EICGR Coalition Comments to SRP Oct 9 2020 FINAL.pdf
[10] Office of Environmental Health Hazard Assessment, Informational Item: Expedited Development of Health Guidance Values, Presentation to the Scientific Review Panel on Toxic Air Contaminants, June 16, 2023.
[11] Office of Environmental Health Hazard Assessment, Selection and Adjustment of Provisional Inhalation Health Guidance Values for Screening-Level Risk Assessment, SRP Discussion Draft, October 2020, page 4: "The methodology described here provides an approach for selecting and adjusting existing HGVs beyond those adopted by the state for inhalation health risk assessment to establish provisional HGVs and perform screening-level evaluations of potential risks. This methodology would be applied when there is limited time or resources to develop HGVs using traditional methodology. Risk levels of concern derived using these provisional HGVs may guide more refined development of HGVs for specific chemicals."
[12] Scientific Review Panel on Toxic Air Contaminants, Zoom Webinar transcript, October 9, 2020, page 130: 20-10-09 - ARB SRP MEETING.

the level of uncertainty in developing or adopting a provisional value will be too high to be acceptable."[13]

While PHRVs may be useful for screening-level analyses to inform the need for more focused scientific assessments, for the reasons indicated by OEHHA staff in its October 2020 presentation to the SRP, we question whether they are sufficiently rigorous for use in regulatory programs. At a minimum, OEHHA's PHRV methodology, and application of that methodology to derivation of PHRVs for cadmium, lead, and zinc for AB 2851 implementation purposes, should be subject to SRP review to ensure that they are based on the best available scientific methods and data. This action would be consistent with OEHHA's June 2023 recommendations to the SRP regarding Expedited Development of Health Guidance Values.[14]

CMC recommendations for Comments 1 and 2:

a. **We request that OEHHA submit its methodology for developing PHRVs described in Appendix F of the SNAPS Lost Hills Final Report, and its derivation of draft PHRVs for the metals specified in AB 2851 to the SRP for external scientific peer review before OEHHA approves the PHRVs and recommends their use in air district fenceline monitoring regulations.**

b. **The PHRVs OEHHA developed for zinc in Appendix H of the SNAPS Lost Hills Final Report are six years old. OEHHA should consider whether the German "maximum workplace concentrations" used to derive the SNAPS non-cancer PHRVs for zinc[15] have been superseded by source values that were derived in a manner that is more consistent with OEHHA's conventional derivation of health guidance values or that are more relevant to environmental exposures, and should develop new PHRVs for zinc if necessary.**

c. **OEHHA should release all PHRVs developed or cross-referenced for AB 2851 implementation as draft values along with supporting documentation describing the source values and the PHRV derivation for a reasonable period of public review and comment, and should provide a written**

[13] *Id.*, page 133.
[14] Office of Environmental Health Hazard Assessment, Informational Item: Expedited Development of Health Guidance Values, Presentation to the Scientific Review Panel on Toxic Air Contaminants, June 16, 2023, slide 49, Next Steps, third bullet: "Bring expedited values to SRP for review."
[15] California Air Resources Board and Office of Environmental Health Hazard Assessment, Study of Neighborhood Air near Petroleum Sources (SNAPS) Lost Hills, California Final Report, October 2025, Appendix H, page 26: zinc values derived from DFG MAK, Deutsche Forschungsgemeinschaft maximum workplace concentrations.

response to all substantive public comments, before advising air districts on establishing threshold levels for monitoring and community notification in fenceline monitoring regulations based on those PHRVs.

d. **We anticipate that fenceline monitoring under AB 2851 will likely involve more than a one-time monitoring event, at least for facilities at which exceedances of PHRVs have been detected at the fenceline over some baseline period. Assuming initial monitoring data confirms that emissions of subject metals may be sufficiently elevated to warrant community notification, we recommend that OEHHA prioritize any PHRVs developed for AB 2851 implementation purposes for development of formal health guidance values through OEHHA's standard and more scientifically rigorous process.**

e. **We recommend that OEHHA advise the air districts to incorporate by reference the health guidance values and PHRVs for lead, zinc, cadmium, and nickel set out in the *Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values*, and any future updates into their fenceline monitoring regulations. These values should be used as the thresholds for community notification, rather than specific, numerical thresholds. This will allow air districts to quickly apply health guidance values as they are developed or updated by OEHHA, including OEHHA's replacement of PHRVs with formally-developed health guidance values.**

f. **Given the relatively small number of substances at issue in AB 2851 implementation, and in recognition of the ongoing role OEHHA's health guidance values will play in this process, OEHHA should commit to a reasonable timeframe (e.g., two years) for replacing PHRVs with formally developed health guidance values.**

3. **Community notification thresholds.**

We recognize that AB 2851 does not require OEHHA to advise air districts on thresholds for community notification. However, guidance from OEHHA and CARB on this issue would increase the probability of a consistent and scientifically valid methodology across all affected jurisdictions. It would also ensure that residents receive consistent information about potential health risks from exposure to the same substances regardless of where they live, reducing disparities between communities throughout the state.

OEHHA volunteered that the concept currently under consideration would have air districts apply a three-to-five-fold multiplier to the health-based fenceline monitoring threshold. OEHHA did not describe how this approach would be applied in practice, but it appears the multiplier would be intended to serve as a proximity-based surrogate for health risk and would vary based on distance between the facility fenceline and the nearest receptors. While we appreciate the appeal of this approach from a timing and agency resource management perspective, it is important to recognize that crude, screening-level methods such as this one would not advance the shared interest of more accurate risk communication. This approach also would not align with existing air toxics new and existing source review regulations and would arbitrarily hold metal shredding facilities to a different standard than all other commercial and industrial facilities.

As the state's foremost authority on health risk assessment policy and practice, OEHHA is in a unique position to assist the air districts in addressing these challenges, and the solution already exists in the context of OEHHA's Air Toxics Hot Spots Guidance Manual for Preparation of Health Risk Assessments (2015 Guidance).[16] OEHHA's 2015 Guidance recommends a tiered approach to health risk assessment that begins with a simple, screening-level assessment using default assumptions for exposure parameters and progresses through higher tiers that allow for more refined assessments. OEHHA developed this approach "to accommodate consideration of site-specific data that may be more appropriate for a given facility than the default variate."[17] The site-specific data employed in Tier 2 and Tier 3 assessments allow for more accurate characterization of the potential health risks the facility poses to offsite receptors, which in turn supports more effective risk communication to the surrounding community (i.e., all parties should have greater confidence in the information provided in community notifications).

Use of OEHHA's tiered risk assessment framework from the 2015 Guidance combined with existing air district risk-based public notification thresholds - typically a cancer risk greater than or equal to 10 in one million or a total non-cancer hazard index greater than or equal to 1 – would align AB 2851 implementation with existing air toxics regulatory program requirements. We see nothing in the law that would preclude this approach. More importantly, it would avoid creating unnecessary alarm in the communities around metal shredding facilities by ensuring that they are notified only when they are actually exposed to concentrations of metals that may pose significant health risks.

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[16] Office of Environmental Health Hazard Assessment, Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015: https://oehha.ca.gov/sites/default/files/media/downloads/crnr/2015guidancemanual.pdf.
[17] *Id.*, Section 1.7, page 1-7.

CMC recommendations for Comment 3:

a. **We request that OEHHA clarify how the multiplier would be applied in practice under one or more hypothetical exposure scenarios (i.e., illustrate how it would change based on varying distance between a facility fenceline and the nearest receptor).**

b. **We request that OEHHA clarify how air districts intend to determine the geographic scope of the community notification.**

c. **We recommend OEHHA provide guidance to air districts regarding determination of notification thresholds to facilitate a consistent approach across affected jurisdictions. Among the topics that should be addressed in this guidance is how monitoring results should be interpreted from a temporal perspective for purposes of determining whether notification would be required. More specifically, the standard itself should include the averaging period over which exceedances of the quantitative threshold (a concentration level) need to be observed before notification is required. For example, a single point-in-time exceedance of a chronic health reference value should not be interpreted as an actionable event since this result must be averaged with other data points over a period of time (e.g., 1 year) to determine whether sustained exposures to the subject metal present a significant health risk to offsite receptors. Similarly, if a PHRV or an HRV is derived from an 8-hour acute reference exposure level, then monitoring data should be averaged over this time-period to determine whether notification would be required.[18]**

d. **We recommend that OEHHA's AB 2851 community notification guidance combine the default concept it is currently contemplating with a tiered approach consistent with its 2015 Guidance, along the following lines:**

    i. **Tier 1 - use existing health guidance values and PHRVs for the target metals along with a multiplier keyed to the actual distance between the facility fenceline and the nearest receptor to approximate exposures and derive screening-level health risk estimates. This Tier**

[18] South Coast Air Quality Management District Rule 1420.1, Emissions Standards for Lead and Other Toxic Air Contaminants from Large Lead-Acid Battery Recycling Facilities, is a district-specific example of a rule that specifies averaging periods for determining whether the facility operator is required to notify the Executive Officer of an exceedance of a regulated contaminant. Subsection (g)(1) on page 13 requires ambient air concentrations of lead to be averaged over a 30-day timeframe to determine compliance with lead emissions standards and 24 hours to determine compliance with arsenic standards.

would apply in the absence of the more specific and more accurate information described in Tier 2 and Tier 3.

ii. **Tier 2 – allow individual facilities to use air dispersion modeling consistent with the recommendations in the 2015 Guidance (i.e., USEPA's AERMOD) to predict actual concentrations of target metals at the nearest receptor, improving the accuracy of facility risk estimates. This Tier would apply in the absence of the more specific and more accurate information described in Tier 3.**

iii. **Tier 3 – for facilities that have already been evaluated through the local air district's Air Toxics Hot Spots regulatory process or air toxics new source review permitting process, update the most recent facility-wide health risk assessment using health guidance values (or PHRVs pending development of formal health guidance values) for the target metals.**

In each case, risk estimates should be compared to air district risk-based public notification thresholds to determine whether, and to what extent, community notification would be required.

4. **Public engagement process on OEHHA's recommendations.**

OEHHA indicated that it has not yet determined how it will engage the public in developing its recommendations to the air districts on AB 2851 fenceline monitoring thresholds. We recommend that OEHHA undertake a state-level process to solicit public input on its draft recommendations to the air districts. OEHHA's recommendations should be uniformly applied by each air district, and workshopping the same material in five different venues would be inefficient, increase the likelihood of inconsistent outcomes, and impede public participation and transparency (e.g., comments and recommendations developed through the Bay Area Air District's rulemaking process would not necessarily be visible to stakeholders participating in the South Coast Air Quality Management District's rulemaking process and vice-versa). This approach would promote greater consistency among air districts in establishing monitoring and notification thresholds.

We recognize that the statute requires OEHHA to provide recommendations to the air districts by January 1, 2027. However, the statute does not appear to preclude OEHHA from issuing draft recommendations for SRP and public review and comment before January 1, 2027, and then finalized during the first half of 2027 while the air districts work toward their July 1, 2027, deadline to adopt fenceline monitoring regulations.

CMC recommendations for Comment 4:

a. **OEHHA should issue a draft report for SRP review and 45-day public review and comment before January 1, 2027. The draft report should describe OEHHA's methodology and process for developing PHRVs and formal health guidance values for AB 2851 metals, the derivation of draft PHRVs for each target metal, and how OEHHA recommends modifying those values for the purpose of determining whether a facility would be subject to community notification requirements.**

b. **We recommend that OEHHA's draft report also describe how air districts should determine the appropriate geographic scope of community notification (e.g., a risk-based isopleth, consistent with existing air toxics rules and OEHHA's 2015 Risk Assessment Guidance, or an alternative mechanism).**

c. **OEHHA should submit final recommendations to the air districts on or before July 1, 2027, along with written responses to SRP and public comments.**

We appreciate OEHHA's consideration of these comments, and we look forward to continued dialogue with OEHHA, CARB, and the air districts to implement AB 2851 in a manner that provides meaningful information about exposure and potential health risk from metal shredding facilities to surrounding communities, and that is consistent with, and comparable to, the information the air districts already provide for other commercial and industrial facilities. If you have any questions, please do not hesitate to contact me at james@metalscoalition.com.

Sincerely,

James Simonelli, Executive Director
California Metals Coalition

cc: Kristina Thayer, Ph.D., Director, OEHHA
Rima Woods, Ph.D., OEHHA
Edie Chang, Deputy Executive Officer, CARB
Yana Garcia, Secretary, CalEPA