



CALIFORNIA METALS COALITION

Main Office and Mailing Address: 2971 Warren Lane, El Dorado Hills, CA 95762
Lobbying Office: 1215 K Street, 17th Floor, Sacramento, CA 95762
P. 916.933.3075 | F. 916.933-3072 | <http://www.metalscoalition.com>

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OAL Reference Attorney
The Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339
staff@oal.ca.gov

Office of Legislation and Regulatory Review
Department of Toxic Substances Control (DTSC)
P.O. Box 806
Sacramento, California 95812-0806
regs@dtsc.ca.gov

RE: Oppose 5-Day Emergency Regulatory Action for Scrap Metal Definition (R-2021-11E)

ABOUT CALIFORNIA METALS COALITION (CMC):

Established in 1972, CMC is a non-profit 501(c)(6) trade association. California is home to nearly 4,000 advanced metalworking facilities, employing over 350,000 Californians with high-paying manufacturing jobs and health benefits.

8 out of 10 employees in California's metalworking sector are from the Latino, African American or Asian American background, and reside with families in disadvantaged communities. Jobs provided by our industry are the only path to the middle class for many Californians.

California's advanced metalworking sector recycles the state's recyclable metals and makes new metal parts for hospitals, clean energy projects, electric cars, infrastructure, the tech sector, and millions of other applications.

CMC ACTION ON ENVIRONMENTAL & COMMUNITY ISSUES:

CMC prides itself on being a forward-thinking organization for California's advanced metal manufacturing sector. Below are some highlights:

- **2020:** With a shortage of PPE (ex: N95 masks) during the COVID-19 pandemic in disadvantaged communities, CMC was asked by leaders from local health centers, churches, and hospitals to produce California-made PPE decontamination kits. CMC worked with facilities to "retool" their manufacturing process. The kit used a Germicidal Ultraviolet (UV-C) System, which is an environmentally friendly, non-chemical disinfection process, to give new life to valuable PPE.
- **2019:** CMC partnered with environmental groups to pass SB 205 (Hertzberg-D), a bill that required industrial facilities to show proof of a storm water discharge permit when renewing (or applying

for) a business license. SB 205 led to a 300% increase in permittees, and tackled the problem of environmental non-filers. For its work, CMC received the *2019 Alas al Futuro Award* from community Environmental Justice group Mujeres de La Tierra (Women of the Earth).

- **2018:** CMC was the only industrial group in California to support Los Angeles County’s Measure W, a new parcel tax of 2.5 cents per square foot of impermeable areas to raise \$300 million per year for clean water projects.
- **2017:** CMC was a major proponent of Attorney General and past-Assemblymember Rob Bonta’s *Buy Clean California Act*, passed in 2017. With Buy Clean, California will put its money where its environmental values are and begin to purchase environmentally clean products for public building projects. This law—supported by a coalition of environmental, labor and CMC—was featured during the Global Climate Action Summit in San Francisco in 2018.
- **2016:** Lead in potable water is an environmental and health issue. CMC led a study thru UCLA to help usher “lead-free” alloys and components into the market. Dr. Marc Edwards, Virginia Tech Department of Civil and Environmental Engineering was the project principal investigator. He was named to *Time Magazine’s Top 100 Influential People of 2016* for the Flint Water Crisis.

RE-STATING THE EMERGENCY DECLARATION WITHIN AN ABBREVIATED TIME PERIOD IS UNACCEPTABLE:

In less than 6-weeks, the DTSC has simply taken its recently rejected emergency declaration, reworded it, and resubmitted it for review. This is insulting to all stakeholders that a state agency would make such a brash move. Moreover, this action has put stakeholder trust in the regulatory process at risk as we await a decision on an issue that was already recently decided.

DTSC SHOULD NOT CIRCUMVENT PUBLIC RULEMAKING PROCESS WITH EMERGENCY DECLARATION:

As previously highlighted, the California Metals Coalition (CMC) has a long track record of working with diverse stakeholders to find solutions. Solutions to environmental and public health issues should be done through a public process. It is unacceptable that the DTSC is circumventing this process for all public stakeholders by declaring a 5-day emergency to revise the definition of scrap metal. The supporting details provided by the DTSC (R-2021-11E) demonstrate the need for rulemaking—but does not substantiate the need for an emergency regulation.

NEGATIVE IMPACT ON ALL METAL RECYCLING:

Advanced metal manufacturers make millions of essential parts for clean energy projects, electric cars, respirators, infrastructure, and more. When a part is manufactured out of metal, there is almost always some portion of the metal that is not used. This excess metal could be cut off from the part, cleaned with a lathe, are turned from a CNC machine. This material enters the recycling stream and is sent to a recycling facility. If the DTSC deems one category of metal recycling as a hazardous waste, the ripple effect through the industry will be unavoidable. Tons of material that would be recycled will potentially end up in a landfill. While this is an unintended consequence, it is still a reality.

DTSC SETTING A PRECEDENT FOR MORE METAL RECYCLING EMERGENCY RULES:

Recycling is arguably one of the most important environmental activities our society has ever embarked upon. Without commercial, governmental and residential recycling, landfills would be a national disaster of waste.

CMC is very concerned that DTSC's decision to move forward on this emergency regulation will set a precedent for all metal recycling definitions. The metals industry does not have any use for any level of toxic metals. But if the state of California deems shredder aggregate as a hazardous waste, the potential greatly increases that the DTSC will pursue more materials within the metal scrap stream to deem as hazardous waste.

On behalf of California's metal manufacturers, we strongly urge the OAL—and DTSC—to stop the 5-day emergency rulemaking process, and work with all stakeholders on a rule that serves the need of the public, the environment, businesses and consumers.

Thank you in advance for your time and consideration.

Sincerely,



James Simonelli
California Metals Coalition
Executive Director