Department of Toxic Substances Control

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CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION

To: Office of Land Use and Climate Innovation
State Clearinghouse
P.O. Box 3044, 1400 Tenth Street, Room 212
Sacramento, California 95812-3044

From: Department of Toxic Substances Control
Permitting Division
P.O. Box 806, 1001 "I" Street, 11th Floor
Sacramento, California 95812-0806

Project Title: AB 2851 Metal Shredding Fees Emergency Rulemaking

Project Location: Statewide

County: Countywide

Project Applicant: Department of Toxic Substances Control

Approval Action Under Consideration by DTSC: Regulations

Statutory Authority: California Health and Safety Code, Chapter 6.5

Project Description: The California Department of Toxic Substances Control (DTSC) pursuant to authority granted by Health and Safety Code Sections 25150, 25150.84, and 58012 proposes to amend Title 22, Division 4.5, Sections 69600.1 through 69600.7 and add Section 69600.8 to the California Code of Regulations, pertaining to metal shredding fees. Health and Safety Code section 25150.84 requires DTSC to collect an annual fee from all metal shredding facilities subject to the requirements of Chapter 6.5 or the alternative management standards in section 25150.82 of the Health and Safety Code, establish and adopt regulations necessary to administer the fee, and establish a fee schedule that is set at a rate sufficient to reimburse the costs of DTSC and the Office of Environmental Health Hazard Assessment (OEHHA) to implement chapter 6.5 and section 41514.6.

The objective of this rulemaking is to adopt regulations for DTSC to administer and collect the annual fee to cover DTSC's and OEHHA's costs to mitigate offsite releases of hazardous waste constituents and airborne contaminants.

Background: Assembly Bill (AB) 2851 (Ch. 743, St. 2024) was enacted with the statewide goals of creating standards for metal shredding operations, requiring those who operate metal shredding machinery to comply with air quality standards, and reducing disproportional health impacts to vulnerable and underserved communities. To achieve these goals, AB 2851 added Health and Safety Code section 25150.87, which requires DTSC to develop hazardous waste constituent monitoring requirements at the fence-line of metal shredding facilities, collect and analyze light fibrous materials (LFM) at the fence-line, and develop community notification procedures. AB 2851 also added Health and Safety Code section 41514.6 to require air districts to adopt complementary local air quality requirements, as well as amended Health and Safety Code section 25150.84 to require DTSC to adopt annual fee regulations at a rate sufficient to cover DTSC's and OEHHA's reasonable costs associated with implementing these sections.

Metal shredding produces metal shredder aggregate and metal shredder residue. Metal shredder aggregate is the mixture of shredded material produced by the shredding of vehicles, appliances, and other items that contain metal and non-metal parts. Metal shredder aggregate is typically comprised of recoverable ferrous and non ferrous metals and metal shredder residue. Metal shredder residue is what remains after ferrous and non ferrous metals have been separated and removed from metal shredder aggregate, but before chemical stabilization/treatment occurs, and is generally comprised of plastics, rubber, glass, foam, fabrics, residual amounts of fluids such as fuels, oils, grease, dirt, and/or other debris.

Metal shredder aggregate and metal shredder residue typically contain hazardous constituents in excess of California's toxicity thresholds. Hazardous constituents of metal shredder aggregate and metal shredder residue can be released offsite and potentially cause exposure to people in nearby communities. For example, stormwater can carry the hazardous constituents offsite and into nearby waterways. Hazardous constituents can also become airborne and travel beyond the fence-line of the property. Additionally, fires have started in feedstock and waste piles containing hazardous constituents, the smoke of which blows offsite and negatively impacts the air quality of the neighboring communities. The primary health and environmental concerns for these hazardous constituents are high levels of toxic metals such as lead, copper, zinc, and cadmium.

Pursuant to AB 2851, OEHHA and DTSC are required to assist local air quality management districts to develop requirements for site-wide fence-line air quality monitoring at metal shredding sites. DTSC is required to implement site-wide fence-line hazardous constituent monitoring requirements at metal shredding sites, collect samples at fence-lines for each site, develop a procedure for community

notification of releases, and adopt regulations to implement and enforce these new requirements by January 1, 2027. The annual metal shredding fee must also cover the costs of these regulatory activities.

Project Activities: Health and Safety Code section 25150.84 requires DTSC to establish a fee schedule to administer and collect the annual fee to cover the costs of implementing AB 2851. This requires DTSC to consider the projected annual revenue needed to conduct the mandated work. The amount of the projected annual revenue needed will depend on the annual projected costs minus any funds remaining from the previous fiscal year. The annual projected costs are equal to the annual expenditure authority pursuant to the State Budget Act and any budget adjustments prescribed by the Department of Finance. This number may change annually based on the enacted State Budget Act. Further, these regulations require DTSC to consider the number of metal shredding sites that meet the applicability parameters, which may change if DTSC identifies additional sites that meet the definition of a metal shredding site subject to the annual fee or if a site's operations change such that it no longer meets the applicability parameters. DTSC created the term "metal shredding site" to assess the metal shredding fee on the operations that are directly responsible for the potentially harmful impacts to surrounding people and communities, and to reimburse DTSC's and OEHHA's costs to mitigate offsite releases from metal shredding activities. While the definition of "metal shredding facility" in Health and Safety Code section 25150.82(b), applies only to that section, DTSC is responsible for interpreting the applicability of the metal shredding fee in a manner that considers all DTSC's and OEHHA's costs related to fence-line monitoring.

To equitably distribute the costs among fee payers, DTSC evaluated its workload data between July 2024 and September 2025 for inspection, enforcement, and other activities at the 10 metal shredding sites known to DTSC ("DTSC Workload Analysis July 2024 through September 2025"). DTSC's workload data from these activities were aggregated and compared to information known about metal shredding sites to determine which factors are predictive of the amount of oversight required. Fence-line hazardous waste constituent monitoring workload is new with the onset of AB 2851 and was not considered in the historical workload analysis.

For FY 2026-27, the fee rate will be set upon approval of this emergency regulation to meet the statutory deadlines for fence-line monitoring in AB 2851. The deadline for fee payment is expedited to ensure DTSC has sufficient revenue to cover the costs of developing and implementing the fence-line hazardous waste constituent monitoring requirements. Without this expedited timeline, DTSC's AB 2851 work would be unfunded for most of the fiscal year.

Beginning fiscal year 2027-28, the base rate will be determined and set on an annual basis through emergency rulemaking by December 1 each year. DTSC will send a notice of fee assessment to feepayers by December 15 with payment due in full by March 1. This will give feepayers more than

75 days to comply with the payment deadline and provide that the revenue collected for the applicable fiscal year is sufficient to cover the costs to implement the fence-line hazardous waste constituent monitoring program. Adoption of this proposed emergency regulatory action is critical to DTSC's oversight responsibilities related to fence-line hazardous waste constituent monitoring at metal shredding sites. Without a source of funding, DTSC will not have the resources to develop requirements for fence-line hazardous waste constituent monitoring at metal shredding sites, enforce the monitoring and reporting of hazardous constituents, collect and analyze light fibrous material at fence lines, or develop a community notification procedure, nor will DTSC and OEHHA be resourced to consult with the air districts in their efforts to implement AB 2851.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control

Exempt Status: Categorical Exemption: [CCR Title 14 Sec. 15308]

Reasons Why Project is Exempt: DTSC has determined none of the exceptions to the categorical exemptions apply to this project, as described in Public Resources Code Section 21084(c), (d), and (e), and CCR, Title 14, Section 15300.2. DTSC has determined that the proposed regulatory amendments are actions taken by DTSC to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

The administrative record for this project is available to the public by appointment at the following location:

Department of Toxic Substances Control
Hazardous Waste Management Program
P.O. Box 806, 1001 "I" Street, 11th Floor
Sacramento, CA 95812-0806

Contact Person	Contact Title	Phone Number
Gary Hammond	Senior Hazardous Substances Engineer	(916) 322-2833

Gabriella Nepomuceno
Approver's Signature:

Date: 06/08/2026

Approver's Name	Approver's Title	Approver's Phone Number
Gabby Nepomuceno	Branch Chief	(916) 251-8328

TO BE COMPLETED BY OFFICE OF LAND USE AND CLIMATE INNOVATION (LCI) ONLY

Date Received for Filing and Posting at LCI: