

SENATE THIRD READING

SB 404 (Caballero)

As Amended July 17, 2025

Majority vote

SUMMARY

Requires the owner or operator of a metal shredding facility to obtain a permit from the Department of Toxic Substances Control (DTSC). Prohibits a metal shredding facility from operating in the state without a permit, as specified. Provides that local and state regulators retain enforcement authority with respect to metal shredding facilities, as that authority exists under current law.

Major Provisions

- 1) Prohibits, unless otherwise specified, a metal shredding facility from operating in California, unless it has a permit issued by DTSC.
- 2) Provides that metal shredding facilities that are subject to regulation and comply with the requirements of this bill are not hazardous waste facilities; however, further provides that this bill does not alter or override the authority of DTSC or a Unified Program Agency, to regulate ancillary hazardous waste generated at a metal shredding facility.
- 3) Provides that this bill does not limit the authority of a local air pollution control district or air quality management district, or the authority of a Unified Program Agency, or the authority of a local environmental health department that is not a Unified Program Agency.
- 4) Authorizes DTSC to adopt regulations as necessary to implement this bill, and thereafter to update and revise the regulations from time to time, consistent with the requirements of this bill.
- 5) Authorizes on and after the effective date of this bill an existing metal shredding facility, operating in compliance with the requirements of this bill, to continue to operate pending final action on a permit application as specified in this bill. Requires, without exception, the facility to have developed and continuously implement a fire prevention, detection, and response plan and comply with the limitations on pile size and duration set forth in this bill. Provides that nothing herein shall prevent DTSC from taking enforcement action before issuance of a final permit.
- 6) Requires DTSC, before taking final action to issue a permit for a metal shredding facility under this bill, to determine, on the basis of substantial evidence, that operation of the facility does not pose a significant threat to public health or the environment and will not cause disproportionate and potentially discriminatory impacts on local communities.
- 7) Requires DTSC to impose any additional facility-specific conditions that are necessary to ensure compliance with this bill and for the protection of human health and the environment.
- 8) Requires, before the submission of a permit application or application for permit renewal for a metal shredding facility, the applicant to hold at least one public meeting, or other community engagement activity approved by DTSC, to inform the community of metal

processing activities and any potential impacts to nearby communities and to solicit questions and input from the public.

- 9) Authorizes the owner or operator of a metal shredding facility to make specified physical or operational changes to the metal shredding facility without seeking prior approval from DTSC.
- 10) Requires metal shredder aggregate, including light fibrous material, which is either released into the environment during transportation, or released beyond the property boundaries of the metal shredding facility, to be subject to regulation as hazardous waste under the Hazardous Waste Control Law (HWCL), if it exhibits a characteristic of hazardous waste.
- 11) Requires the owner or operator of a metal shredding facility to provide DTSC with immediate notice of a fire or other incident at the metal shredding facility that requires the assistance of a local fire department or other first responder.
- 12) Requires the owner or operator of a metal shredding facility to establish an effective means of providing public notice to members of the surrounding community upon the occurrence of a fire or other incident that poses a threat to human health or the environment outside of the facility.
- 13) Authorizes DTSC to deny, revoke, or suspend a permit authorizing the operation of a metal shredding facility under this bill.
- 14) Exempts from the definition of hazardous waste, under the HWCL: chemically treated metal shredder residue (if treated according to the provisions of this bill); scrap metal; metal shredder aggregate (managed in accordance with the requirements of this bill); intermediate metal products that are subject to further processing to improve product quality; finished ferrous and nonferrous metal commodities that are separated or removed from metal shredder aggregate at a metal shredding facility; and, nonmetallic recyclable items recovered from metal shredder aggregate for which a market exists.

COMMENTS

California Hazardous Waste Control Law (HWCL): The HWCL is the state's program that implements and enforces federal hazardous waste law in California and directs DTSC to oversee and implement the state's hazardous waste laws and regulations. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. The HWCL covers the entire management of hazardous waste, including hazardous waste generation, management, transportation, and ultimately disposal into a state or federally authorized facility.

Metal shredder facilities: California law defines a "metal shredding facility" as an operation that uses a shredding technique to process end-of-life vehicles, appliances, and other forms of scrap metal to facilitate the separation and sorting of ferrous metals, nonferrous metals, and other recyclable materials from non-recyclable materials. A "metal shredding facility" does not include a feeder yard, a metal crusher, or a metal baler, if that facility does not otherwise conduct metal shredding operations. As such, most scrap metal recycling facilities would not be subject to any proposed regulations meant to manage the waste generated from metal shredding facilities.

Metal shredder waste: The shredding of scrap metal (e.g., end-of-life vehicles) results in a mixture of recyclable materials (e.g., ferrous metals and nonferrous metals) and non-recyclable material (i.e., metal shredder waste). Aggregate is generated after the initial separation of ferrous metals and consists of nonferrous metals that can be further recovered and metal shredder waste. Metal shredder waste consists mainly of glass, fiber, rubber, automobile fluids, dirt, and plastics in automobiles and household appliances that remain after the recyclable metals have been removed. Because scrap metal contains regulated hazardous constituents, it can contaminate and ultimately cause metal shredder waste to exhibit a characteristic of hazardous waste for toxicity.

Legislation to address impacts of metal shredding facilities: In 2014, Senator Jerry Hill introduced SB 1249 (Chapter 756), based in part on concerns about metal shredder safety due to recent fires at metal shredding facilities in his district, but also in response to the historic concerns about metal shredding facilities and their potential impact on the environment. The intent of the bill was that the conditional nonhazardous waste classifications, as documented through the historical "f letters," be revoked and that metal shredding facilities be thoroughly evaluated and regulated to ensure adequate protection of human health and the environment. SB 1249 was signed by the Governor and authorized DTSC to develop alternative management standards (different from a hazardous waste facility permit) if, after a comprehensive evaluation of metal shredding facilities, DTSC determined that alternative management standards were warranted.

DTSC's evaluation of metal shredding facilities: As part of SB 1249, DTSC conducted a multi-year evaluation of metal shredding facilities, issuing a draft report in 2018 and then issuing a final report in August of 2021 titled, "Evaluation and Analysis of Metal Shredding Facilities and Metal Shredder Wastes." According to the final report:

"DTSC reviewed hazardous waste management activities, current regulatory environmental oversight, and the history of releases, contamination, and enforcement actions at metal shredding facilities in California. DTSC also reviewed the current disposal practices of chemically treated metal shredder waste at municipal solid waste landfills to identify the potential for migration of contaminants to groundwater, surface water, and the air. The study team found numerous examples of accidents, improper storage of hazardous wastes, soil contamination, and releases of hazardous wastes that impacted the environment and surrounding communities at metal shredding facilities.

DTSC and other agencies have taken several enforcement actions against metal shredding facilities in response to these types of incidents. DTSC's efforts have allowed for it to gain a more thorough understanding of metal shredder operations, as well as of the ambiguities within the existing regulatory framework under which metal recyclers, including shredding facilities, have historically operated. *Based on this evaluation, DTSC has determined that the point of generation of hazardous waste is at the shredder itself, meaning that various downstream activities performed at the facilities would be subject to the Hazardous Waste Control Law.* Under the Hazardous Waste Control Law, entities who conduct hazardous waste treatment, storage, or disposal are required to apply for and receive a form of authorization from DTSC in order to operate. *Based on the results of its evaluation and DTSC's updated understanding of these activities, metal shredding facilities would require a form of authorization from DTSC to continue to operate in the same manner."*

This bill: SB 404 creates a regulatory structure in state law for metal shredding facilities. There are currently nine metal shredding facilities in the state, some operating under regulatory authorization from the 1980s and 1990s. Some facilities began the permitting process for a full hazardous waste facility permit and others may have less certain authorization. Having one clear regulatory structure for all metal shredding facilities in the state makes sense. Clear rules will be helpful for state and local regulators and facilities, and will help set the regulatory standard for future metal recycling facilities in the state.

According to the Author

"Metal shredding facilities recycle millions of end-of-life vehicles, household appliances, and other metallic items produced, used, and discarded annually in California. Unless recycled, these metal materials would rapidly overwhelm all available landfill capacity, creating a massive accumulation of damaged and abandoned cars, appliances, and other items.

Metal shredding poses environmental concerns to surrounding communities because the shredding process has the potential to release particulate materials and has a risk of causing fire. The current framework for hazardous waste does not include metal shredding facilities and therefore the facilities are not required to obtain a permit and are not regulated by the California Department of Toxics and Substances Control (DTSC). Without a comprehensive regulatory framework, DTSC on their own has begun to regulate the industry on a facility-by-facility basis using a hazardous waste enforcement framework, creating an uncertain and inconsistent legal environment, which has resulted in litigation.

SB 404 will resolve this uncertainty, allow the pending litigation to be dismissed, and ensure comprehensive and robust oversight and enforcement of metal shredding facilities under DTSC's authority. This bill will ensure that California remains a sustainability leader in "reducing, reusing and recycling" by fostering the recycling of scrap metal into new metal products, while at the same time protecting adjoining communities from environmental pollution."

Arguments in Support

According to the California Metal Recyclers Coalition:

"Metal shredding facilities provide an essential public service to many sectors of the economy, including state and municipal governments, California businesses and residents by providing a safe, reliable and environmentally responsible means of recycling the vast quantities of recyclable metal-containing materials that are generated in the state every day. These facilities successfully recycle millions of end-of-life vehicles, trucks, busses, household appliances, steel beams, rebar and other metallic construction materials, and thousands of other items ranging in size from a backyard barbeque to sections of the old San Francisco-Oakland Bay Bridge. More than ever, these facilities provide the only feasible and cost-effective means of dealing with the huge number of burned vehicles, household appliances and other metal items that are damaged or destroyed by the wildfires which are sweeping through our communities with distressing frequency.

These recycling operations produce thousands of tons of recycled ferrous and non-ferrous metal commodities that are sold to steel plants, smelters and foundries around the world to be used in the manufacturing of new products.

SB 404 solves a problem that has threatened the economic viability of metal shredding facilities for almost a decade—the lack of clarity around how these critical facilities should be regulated. Because scrap metal is exempt from regulation under the Hazardous Waste Control Law, facilities that recycle these valuable materials fall outside the permitting program administered by the Department of Toxic Substances Control (DTSC). This bill would establish a new regulatory program tailored specifically to this industry that would be administered by DTSC under new authority. Significant improvement has been achieved over the past few years, and the regulatory framework established by SB 404 will ensure that these important facilities continue to operate safely and in an environmentally protective manner. The operating and performance standards have been discussed at length with DTSC and are supported by members of the industry. California's metal shredders and DTSC agree that a comprehensive regulatory program that recognizes the unique nature and importance of scrap metal is in the best interest of the industry and the state."

Arguments in Opposition

According to a coalition of environmental justice organizations:

"The undersigned organizations respectfully oppose Senate Bill 404 (Caballero), which deprives communities near certain hazardous waste facilities of necessary human health and environmental protections required by California's hazardous waste laws. The bill's effort to create a separate, less comprehensive regulatory regime for metal shredding facilities does not solve, and may even exacerbate, these threats.

Metal shredder aggregate is hazardous waste and must be regulated as such under the hazardous waste law. Contrary to the bill's overly complicated approach, California should regulate metal shredding facilities under the existing hazardous waste requirements, including by promptly requiring the facilities to obtain hazardous waste permits with conditions necessary to protect human health and the environment. The Department of Toxic Substances Control ("DTSC") should then be directed to develop additional requirements, within the existing hazardous waste legal framework, tailored to address the ongoing problems we've seen at metal shredding facilities—including fires and dispersal of heavy metals into surrounding communities.

While this particular bill addresses metal shredding facilities, the approach it takes is part of a problematic trend that deprives overburdened communities of protection from the dangers of hazardous waste mismanagement. California should prioritize moving forward with available authority and under the existing framework to safeguard its communities and environment from toxic pollution. While we agree with the need to address the threats posed by metal shredding facilities to communities, this bill as written moves in the opposite direction."

According to Universal Service Recycling, Inc. (Universal), Pacific Auto Recycling Center (PARC), and Kramar's Iron & Metal Co. (Kramar):

"[Universal, PARC, and Kramar], three small businesses that have recycled metals in California for decades, are regrettably opposed to SB 404 unless it is amended to eliminate the duplicative, overly burdensome, and costly requirements it would impose on our businesses.

Metal shredding and recycling is a critical circular economy and environmental protection measure in California. Small metal recyclers assist in the statewide recovery of valuable secondary metals, separating and bundling them into compact and transportable bales that can be sold as raw materials for manufacturing new metal products, such as rebar used for building and transportation projects. Small metal recyclers also play an important role in the cleanup process that follows natural disasters, such as the catastrophic wildfires that impacted Los Angeles communities earlier this year, and also support local economies in disadvantaged communities for the many jobbers who collect and sell scrap metal to our facilities.

One of our primary concerns is that, despite properly defining "metal shredder aggregate" as a material in process and not a waste, the bill then goes on to create a surrogate hazardous waste permitting program for metal shredder aggregate. This approach greatly expands the Department of Toxic Substances Control's (DTSC) jurisdiction beyond management of hazardous waste into management of an entire production process, and an entire business operation. It would authorize DTSC to regulate valuable secondary materials that are still in process in the same way they regulate hazardous waste. We have significant concerns about expanding DTSC's jurisdiction into a production process, and in particular, the authority given to DTSC in Article 8 to entirely shut down a business without due process.

We urge the Committee to request that the author reconsider our proposed amendments because they focus the bill on activities within DTSC's jurisdiction - on the management of hazardous waste and providing regulatory certainty for the onsite treatment of hazardous waste that occurs at some large metal shredding facilities."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, enactment of this bill could cost DTSC approximately \$1.6 million annually and four positions to cover its oversight and regulatory costs. The bill requires that all of DTSC's costs be reimbursed by an annual fee imposed on metal shredding facilities, as well as via a reimbursement agreement to cover the department's direct costs related to processing permit applications.

VOTES

SENATE FLOOR: 36-0-4

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
ABS, ABST OR NV: Choi, Limón, Menjivar, Reyes

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 6-1-0

YES: Connolly, Bauer-Kahan, Castillo, Lee, McKinnor, Papan
NO: Ellis

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Dixon, Ta, Tangipa

UPDATED

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CONSULTANT: Josh Tooker / E.S. & T.M. / (916) 319-3965

FN: 0001498