
UNFINISHED BUSINESS

Bill No: SB 404
Author: Caballero (D), et al.
Amended: 9/4/25
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 4/2/25
AYES: Blakespear, Dahle, Gonzalez, Hurtado, Menjivar, Padilla, Pérez
NO VOTE RECORDED: Valladares

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 36-0, 5/29/25
AYES: 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
NO VOTE RECORDED: Choi, Limón, Menjivar, Reyes

ASSEMBLY FLOOR: 47-1, 9/12/25 – Roll call vote not available

SUBJECT: Hazardous materials: metal shredding facilities

SOURCE: Author

DIGEST: This bill establishes a new regulatory structure at the Department of Toxic Substances Control for metal shredding facilities.

Assembly Amendments

- 1) Create a definition of a “small metal shredding facility” and limit the activities such facilities can conduct;

- 2) Clarify metal shredding facilities operating with an interim permit must have a fire prevention and response plan, and must comply with volume limits in the shredded material and feedstock piles;
- 3) Require facilities to have training plans to ensure employees can properly respond to fire and other emergency situations;
- 4) Clarify the timeline the Department of Toxic Substances Control (DTSC) must adhere to when it receives a permit application;
- 5) Clarify the ability of a certified uniform program agency (CUPA) to enforce the law is not impacted by this bill;
- 6) Impose limits on the volume of material that can be kept in feedstock and metal shredder aggregate piles to the amount of material that can be processed in a 24-hour period (feedstock piles) and a 48-hour period (aggregate piles);
- 7) Give DTSC more authority to deny or condition proposed facility modifications;
- 8) Provide further clarification on how DTSC can set and raise the fees charged to metal shredding facilities, as well as how the money is collected, where it is deposited, and how it can be spent;
- 9) Clarify DTSC's enforcement authority, including its ability to suspend permits for an operator's failure to adhere to the law;
- 10) Clarify all metal shredding facilities must implement fence-line air quality monitoring systems as required elsewhere in law; and
- 11) Include a number of other technical and clarifying changes.

ANALYSIS:

Existing law:

- 1) 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 help separate and sort ferrous metals, nonferrous metals, and other recyclable materials from non-recyclable materials.
- 2) Allows DTSC in consultation with the Department of Resources Recycling and Recovery (CalRecycle), the State Water Resources Control Board (SWRCB), and local air districts to adopt regulations to set management standards for

metal shredding facilities. These standards are used to regulate these facilities in lieu of standards set out in the Hazardous Waste Control Law (HWCL).

- 3) Precludes DTSC from adopting management standards that are less stringent than standards set by federal law.
- 4) Allows waste from a metal shredder (known as metal shredder residue or MSR) to be classified and managed as nonhazardous waste, provided certain standards are met. Such nonhazardous waste can be used as alternative daily cover or for beneficial reuse, or it may be disposed of if it complies with regulations in the Water Code.
- 5) Allows DTSC to assess a fee on metal shredding facilities to cover the cost of the program.
- 6) Deems treated MSR managed under the standards set in law is solid waste when it is accepted by a solid waste landfill or other authorized location for disposal or for use as alternative daily cover or other beneficial use.

This bill:

- 1) Prohibits a metal shredding facility from operating in California, unless it has a permit issued by DTSC.
- 2) Provides metal shredding facilities regulated under this bill are not hazardous waste facilities, but does not alter or override the authority of DTSC or a CUPA to regulate ancillary hazardous waste generated at a metal shredding facility.
- 3) Makes it clear local air pollution control districts, air quality management districts, CUPAs, and local environmental health departments do not lose any authority to regulate metal shredding facilities.
- 4) Authorizes DTSC to adopt, update and revise regulations to implement this bill.
- 5) Authorizes an existing metal shredding facility operating in compliance with this bill, to continue to operate pending final action on a permit application. Facilities must have developed and continuously implement a fire prevention, detection, and response plan and comply with the limitations on pile volume and duration set forth in this bill. DTSC is permitted to take enforcement action against a non-compliant facility prior to issuing a final permit.

- 6) Requires DTSC, before issuing a permit, to determine 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 necessary to ensure compliance with this bill and for the protection of human health and the environment.
- 8) Requires an applicant, before submitting a permit application or application for permit renewal, 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 a metal shredding facility to make certain physical or operational changes to the facility without getting prior approval from DTSC.
- 10) Subjects metal shredder aggregate, including light fibrous material (LFM), which is either released into the environment during transportation, or released beyond the property boundaries of the metal shredding facility, to regulation as hazardous waste under the Hazardous Waste Control Law (HWCL), if it exhibits a characteristic of hazardous waste.
- 11) Requires 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 a metal shredding facility to establish an effective means of providing public notice to members of the surrounding community when a fire or other incident that poses a threat to human health or the environment outside of the facility takes place.
- 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.

Background

California Hazardous Waste Control Law (HWCL). The HWCL is the state's program that implements and enforces federal hazardous waste laws 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 lifecycle of hazardous waste, from generation, to management, transportation, and ultimately disposal into a state or federal authorized facility.

What Do Metal Shredders Do & Produce? DTSC defines a metal shredder as an entity that processes end-of-life vehicles, appliances, and other forms of scrap metal, separates recyclable materials from non-recyclable materials, and then sells the recyclable materials and disposes of the non-recyclable materials. There are about 10 metal shredding operations in the state today.

The Late 1980s to Today – A Brief History of Metal Shredding Regulation. Based on the hazardous characteristics of MSR, metal shredding facilities do generate hazardous waste and – prior to the late 1980s – were subject to hazardous waste requirements, including permitting, transportation and disposal.

However, in the late 1980s, in an effort to relax the requirements on metal shredding facilities, the Department of Health Services (DHS) – the predecessor of DTSC – determined treating MSR using chemical stabilization techniques could effectively eliminate the harm posed by MSR. As a result, this waste was determined – when properly treated – to no longer pose a significant hazard to human health and safety, livestock, and wildlife.

Following this determination, seven metal shredding facilities applied for and were granted nonhazardous waste classification letters by DHS, and later DTSC, as long as they used the metal treatment fixation technologies approved by the state. Known as “f letters,” these classifications ultimately allowed treated MSR to be handled, transported, and disposed of as non-hazardous waste in class III landfills (i.e., solid (non-hazardous) waste landfills).

SB 1249 (Hill, Chapter 756, Statutes of 2014). Following concerns about metal shredder safety, SB 1249 was enacted. The bill gave DTSC the authority to develop alternative management standards (different from a hazardous waste facility permit) if, after evaluating metal shredding facilities, DTSC determined alternative management standards would still protect the public and the environment.

SB 1249 gave DTSC a timeframe to develop and adopt alternative management standards that may have led to the elimination of the “f letter” process, but DTSC never adopted any standards and the authority to do so sunset under the terms of SB 1249.

Cue The Lawyers – Part One. More than a decade before the enactment of SB 1249, DTSC issued “Official Policy/Procedures #88-6 Auto Shredder Waste Policy and Procedures” – better known as OPP #88-6 – in November 1988. The policy classified metal shredder aggregate as in-process material, not a waste that needed to be regulated under the state’s HWCL.

More than 30 years after it was established – and 7 years after the passage of SB 1249 – OPP #88-6 was unilaterally administratively rescinded by DTSC in October 2021. DTSC stated the policy was inexact, self-contradictory and in conflict with federal and state law.

One month later, in November 2021, Pacific Auto Recycling Center (PARC) filed a complaint against DTSC asking for OPP #88-6 to be re-instated. PARC argued the DTSC policy was actually a regulation under the state’s Administrative Procedure Act (APA) and as such, DTSC couldn’t simply erase OPP #88-6 without going through the APA’s regulatory process.

In June 2023, the trial court agreed with PARC, ordered DTSC to re-instate OPP #88-6, and stated DTSC needed to go through the APA if it wished to rescind OPP #88-6.

Cue The Lawyers – Part 2. In November 2021, the Institute of Scrap Recycling Industries (ISRI) and several individual companies filed suit against DTSC following its adoption of emergency regulations to remove metal shredder aggregate – the ferrous and non-ferrous metals that are recycled – from the definition of scrap metal, which effectively subjected the material to the state’s HWCL.

In March 2022, the court granted ISRI’s request to prevent the regulation from taking effect but did not rule on the underlying merits of the case and after the injunction was granted, DTSC allowed the emergency regulation to expire. The remaining claims on the merits have been consolidated with a different 2019 case pending before the court and is expected to go to trial in late 2026.

Comments

- 1) *I Fought The Law.* If this bill becomes law, it would effectively end the litigation referenced in the “Background” section of this analysis, as well as

other related lawsuits. This bill repeals OPP #88-6 and because it defines metal shredder aggregate as scrap metal and not hazardous waste, this bill also nullifies DTSC's since-expired emergency regulation that sought to remove metal shredder aggregate from the definition of scrap metal.

- 2) *Making Shredded MSR Non-Hazardous.* As noted in the “Background” section, DHS – DTSC’s predecessor – determined in the 1980s that then-current metal treatment fixation technologies could lower the soluble concentrations of metals in MSR, making this treated waste “insignificant” as a hazard to human health and safety, livestock, and wildlife. Following that determination, a number of metal shredding facilities applied for and received nonhazardous waste determinations – known as “f letters” – from DHS, and later DTSC. As such, their treated MSR is regulated as nonhazardous waste provided they use the approved metal fixation treatment formulas and technologies to deal with their MSR.

This bill eliminates the “f-letter” process and allows chemically treated MSR to be used beneficially as alternative daily cover or otherwise disposed of in authorized solid waste landfills provided they adhere to or exceed the MSR treatment fixation technology standards set in this bill. Those that cannot meet the standards may alternatively handle MSR as hazardous waste.

- 3) *Metal Shredder Aggregate, MSR, & DTSC Permitting.* While this is a bit of an oversimplification, it may be helpful to think of metal shredding facilities as producing two main end products – metal shredder aggregate and MSR.

The metal shredder aggregate consists of the ferrous and nonferrous materials that are recycled and sold, while the MSR is just that – residue and waste that must be properly disposed of in accordance with standards set forth by this bill.

Under current law, DTSC, CalRecycle, the SWRCB, local air districts, and CUPAs can all adopt regulations to set management standards for metal shredding facilities. These standards are used to regulate these facilities in lieu of standards set out in the HWCL.

- 4) *The Bottom Line – A Triple Venn Diagram.* At its core, SB 404 deals with three different items or concepts that do overlap in places:

- Regulation of MSR. This is likely the least contentious portion of this bill. SB 404 states that if a facility treats MSR according to the standards set in this bill, that facility does not have to be classified as a hazardous waste facility. However, if a facility chooses not to treat MSR according to those

standards, it can still operate but it does have to operate this portion of its business under a hazardous waste facility permit.

- Resolution of Lawsuits. SB 404 resolves a number of lawsuits involving DTSC, the metal shredding industry, and entities arguing they were impacted by a metal shredding facility. This includes not just the lawsuits mentioned in the “Background” section of this analysis, but a number of others, including some involving the former Oakland A’s. Opinions on whether this bill’s resolution of these suits is appropriate vary and likely depend on whether a party views itself as likely to win in court and/or achieve a better regulatory outcome via the courts and/or is in a position to garner attorneys fees should it prevail in court.
- Regulation of Metal Shredder Aggregate. This appears to be the most contentious part of SB 404.

Some opponents argue since this bill defines metal shredder aggregate as scrap metal, DTSC should not be involved in the regulatory process. They are further concerned adding a DTSC permitting process on top of the existing processes required by regional water boards, air districts, fire authorities, CUPAs, and others will complicate the permitting process without adding any value.

Other opponents argue the opposite side of the same coin, fearing under this bill DTSC is losing regulatory authority it has now and is not given enough new authority – or specific direction – to regulate entities, protect environmentally sensitive communities, and more.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, DTSC estimates ongoing costs of up to \$1.6 million, though those costs will be reimbursed by permit fees the bill allows DTSC to charge. The Department of Justice (DOJ) anticipates costs of an unknown, but potentially significant, related to representing, litigating and doing enforcement work on behalf of DTSC.

SUPPORT: (Verified 9/6/25)

Auto Dismantlers Association
Beacon House Association of San Pedro
Boys & Girls Clubs of The Los Angeles Harbor
California Council for Environmental & Economic Balance
California Metal Recyclers Coalition

California Police Chiefs Association
California Professional Firefighters
California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
California Steel Industries, INC.
California Strategies & Advocacy, LLC
Central City Association of Los Angeles
Ecology Recycling Services
Grand Vision Foundation
Latino Caucus of California Counties
Pacific Steel Group (PSG)
Peace Officers Research Association of California
Recology Waste Zero
Recycled Materials Association - West Coast Chapter
Republic Services, Inc.
Resource Recovery Coalition of California
Rincon San Luiseno Band of Indians
South Colton Diversity Committee
Strength Based Community Change
Waste Management
Western States Council Sheet Metal, Air, Rail and Transportation
Wilmington Chamber of Commerce

OPPOSITION: (Verified 9/6/25)

Cargill, Inc.
Kramar's Iron and Metal Co.
Natural Resources Defense Council
Oakland Athletics
Pacific Auto Recycling Center
People's Collective for Environmental Justice
San Francisco Baykeeper
Universal Service Recycling, Inc.
Valley Industry and Commerce Association
West Oakland Environmental Indicators Project

Prepared by: Evan Goldberg / E.Q. / (916) 651-4108, Heather Walters / E.Q. /
(916) 651-4108
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