

Date of Hearing: April 8th, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 1338 (Solache) – As Amended April 3, 2025

SUBJECT: Metal shredding facilities: regulations.

SUMMARY: Requires an owner or operator of a metal shredding facility to reimburse an Air Quality Management District or Air Pollution Control District (Air District) for reasonable regulatory costs incurred by the Air District in implementing facility-wide fence-line air quality monitoring requirements at metal shredding facilities.

EXISTING LAW:

- 1) Requires the Department of Toxic Substances Control (DTSC) to enforce the standards within the Hazardous Waste Control Law (HWCL) and the regulations adopted by DTSC pursuant to the HWCL. (Health and Safety Code (HSC) § 25180)
- 2) Authorizes DTSC, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and affected local air quality management districts, to adopt regulations establishing alternative management standards (AMS) for metal shredding facilities for hazardous waste management activities within DTSC's jurisdiction as an alternative to the requirements specified in the HWCL. (The authority to adopt regulations for AMS for metal shredding facilities expired on January 1, 2018, therefore no AMS were ever adopted). (HSC § 25150.82 (c))
- 3) Authorizes DTSC to collect an annual fee from all metal shredding facilities that are subject to the requirements of the HWCL or to the alternative management standards adopted pursuant to HSC § 25150.82. Requires DTSC to establish and adopt regulations necessary to administer this fee and to establish a fee schedule that is set at a rate sufficient to reimburse DTSC's costs to implement the HWCL as applicable to metal shredder facilities. Authorizes the fee schedule established by DTSC to be updated periodically as necessary and requires the assessment to be no more than the reasonable and necessary cost of DTSC to implement the HWCL, as applicable to metal shredder facilities. (HSC § 25150.84 (a))
- 7) Defines "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 nonrecyclable materials that are components of the end-of-life vehicles, appliances, and other forms of scrap metal. "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. (HSC § 25150.82 (b))
- 8) Requires, on or before January 1, 2027, an Air District whose jurisdiction includes a metal shredding facility, in consultation with DTSC and the Office of Environmental Health Hazard Assessment (OEHHA), to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities. (HSC § 41514.6 (a))

- 9) Requires metal shredding facilities to implement facility-wide air quality monitoring developed by Air Districts. (HSC § 41514.6 (c))
- 10) Requires, on or before July 1, 2027, an Air District that has a metal shredding facility within its jurisdiction to adopt regulations requiring facility-wide fence-line air quality monitoring at metal shredding facilities. (HSC § 41514.6 (d))
- 11) Authorizes, but does not require, the owner or operator of a metal shredding facility to reimburse an Air District for reasonable regulatory costs associated with implementing facility-wide fence-line air quality monitoring requirements. (HSC § 41514.6 (g))

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "AB 1338 would ensure that emissions from metal shredding facilities are properly monitored and controlled by enforcing existing, robust local rules and regulations governing these facilities. We recognize the importance of monitoring and controlling emissions from metal shredding facilities to protect public health; however, given the limited resources available to local air districts, it is essential that local discretion is preserved to ensure that air quality resources are being used as efficiently as possible. This bill would ensure that fence-line monitoring is implemented when necessary while allowing local jurisdictions to utilize their expertise, discretion and knowledge of local facilities to adopt cost-effective strategies that provide effective air quality protection for surrounding communities."

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 federal 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.

In a 2002 draft report on auto shredder waste, DTSC showed that metal shredder waste often exceeded the soluble threshold limit concentrations (STLCs) for lead, cadmium, and zinc.

Non-hazardous waste classification granted to metal shredding facilities: Based on the hazardous characteristics of metal shredder waste, in many instances, metal shredding facilities are hazardous waste generators and are thus subject to hazardous waste requirements, including permitting, transportation and disposal. In the late 1980s, in an effort to relieve metal shredding facilities of these requirements, the Department of Health Services (DHS) (the predecessor of DTSC) determined that the metal treatment fixation technologies were capable of lowering the soluble concentrations of metal shredder waste such that the treated metal shredder waste was rendered insignificant as a hazard to human health and safety, livestock and wildlife. Seven metal shredding facilities applied for and were granted nonhazardous waste classification letters by DHS and later DTSC if they used the metal treatment fixation technologies. The authority to issue these classifications is found in subdivision (f) of Section 66260.200 of Title 22 of the California Code of Regulations, and these determinations are now known as "f letters." These classifications ultimately allowed treated metal shredder waste to be handled, transported and disposed of as non-hazardous waste in class III landfills (i.e., solid (nonhazardous) waste landfills).

Legislation to address impacts of metal shredding facilities: In 2014, Senator Jerry Hill introduced SB 1249 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 (Hill, Chapter 756, Statutes of 2014) 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 implementation of SB 1249: DTSC's implementation of SB 1249 included: conducting a comprehensive evaluation of metal shredding facilities and metal shredder waste; determining if alternative management standards specific to metal shredding facilities could be developed to ensure that the management, treatment and disposal practices related to metal shredder waste are protective of human health and the environment; preparing an analysis of activities to which the alternative standards will apply and to make available to the public before any regulations are adopted; and, adopting emergency regulations establishing a fee schedule to reimburse DTSC's costs for the evaluation, analysis, and regulatory development for metal shredding facilities.

As part of this implementation, in January 2015, DTSC developed a three-year work plan to implement SB 1249. The work plan includes development of a treatability study on metal shredder wastes to demonstrate the highest level of treatment that can be achieved with the current technology, and an assessment of the potential for treated or untreated metal shredder waste to migrate off-site and impact residents or business occupants in the areas surrounding metal shredding facilities and landfills that accept metal shredder waste.

As part of the work plan, DTSC approved air monitoring summary reports for metal shredding facilities located in Bakersfield, Redwood City, and Terminal Island. Air sampling was

conducted at the facilities during October 2016 to assess the potential for offsite emissions associated with the metal shredding operations.

DTSC oversight of metal shredders: DTSC has inspected and taken various enforcement actions on metal shredder facilities, as well as metal recyclers. One facility to note is Schnitzer Steel Industries, Inc. (now known as Radius Recycling) located in Oakland, Alameda County. Schnitzer Steel owns and operates a scrap metal recovery and recycling facility, located at 1101 Embarcadero West, Oakland, California 94607 (Facility), occupying approximately 33.2 acres adjacent to the Oakland Inner Harbor waterfront and the Port of Oakland. Below is a brief summary of some enforcement actions against Schnitzer Steel:

- 1) In 2012, the Alameda County District Attorney's Office, in consultation with DTSC and the California Department of Fish and Wildlife, initiated an investigation of the area surrounding the Facility in response to alleged releases of light fibrous material (LFM). On February 3, 2021, a Stipulation for Entry of Final Judgement and Order on Consent (Stipulation) was filed and approved by the Alameda County Superior Court. Schnitzer Steel agreed to a \$4.1 million settlement over allegations that it violated the state's environmental laws.
- 2) Due to concerns about ongoing releases of LFM, DTSC's Office of Criminal Investigations conducted an air monitoring study and collected samples of LFM from the ground in the areas surrounding the Facility from December 2020 to May 2023.
- 3) On February 23, 2021, DTSC ordered Schnitzer Steel, through a formal enforcement action, to clean up contamination both on site and within the surrounding community, modify the facility as needed to prevent releases, and submit a plan to control immediate threats from metal shredding practices.
- 4) On March 30, 2022, a joint letter from DTSC, the Attorney General's Office, and the Alameda County District Attorney's Office (the "People") was sent to Schnitzer Steel notifying them of continued off-site releases and deposition of LFM from the Facility and how they are in violation of the February 3, 2021 Stipulation. The letter included actions Schnitzer Steel must take to stop these releases. After multiple rounds of communication and DTSC's observations that LFM releases are still occurring, a final cease and desist LFM letter was sent to Schnitzer Steel by the People on July 31, 2023.
- 5) On August 9, 2023, a fire started in an unprocessed scrap metal pile at Schnitzer Steel's Facility. DTSC issued violations to Schnitzer Steel for failure to operate the facility to minimize the possibility of a fire and for failure to immediately notify the State Office of Emergency Services that the facility had a fire.

Recent fence-line monitoring requirements: Citing concerns with a metal shredding facilities, Assemblymember Bonta introduced AB 2851 (Chapter 743, Statutes of 2024). AB 2851:

- 1) Requires DTSC to require metal shredding facilities to monitor hazardous waste constituents, report on the results of that monitoring, and implement facility-wide fence-line hazardous waste constituent monitoring requirements;

- 2) Requires, on or before July 1, 2027, DTSC to develop a procedure for community notification of the public for the area in which a metal shredding facility is located, if monitoring indicates any release of light fibrous material;
- 3) Requires, on or before January 1, 2027, DTSC to develop regulations to implement, interpret, or make specific these requirements for metal shredding facilities; and,
- 4) Requires, on or before January 1, 2027, an Air District, if their jurisdiction includes a metal shredding facility, in consultation with DTSC and OEHHA, to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities.

During the legislative process, Assemblymember Bonta stated the following: "Metal shredding facilities are disproportionately located in our most vulnerable and underserved communities already suffering from a disproportionate amount of pollution exposure, and in turn, disparate health impacts. AB 2851 will push forward the state's commitment in advancing environmental justice and equity for those who are impacted the most by toxic emissions. AB 2851 is needed to help support the creation of standards for metal shredders. Fence-line monitoring will give local municipalities an awareness of the ongoing sources of potential pollution and the community notification will benefit all who are living in the surrounding neighborhoods."

This bill: AB 1338 requires the owner or operator of a metal shredding facility to reimburse an Air District for reasonable regulatory costs incurred by the Air District in implementing facility-wide fence-line air quality monitoring requirements at metal shredding facilities.

Arguments in support: According to the South Coast Air Quality Management District (AQMD):

"This bill would amend existing law to provide local air districts with existing regulations for metal shredding facilities that meet specified criteria, as of January 1, 2026, the discretion to implement AB 2851 (Bonta, 2024) requirements, including universal fenceline monitoring at all metal shredding facilities. The bill would also require that air districts are reimbursed by facilities for reasonable regulatory costs relating to implementing AB 2851 requirements, similar to fence-line monitoring requirement situations regarding refineries and wastewater treatment plants.

Metal shredding facilities release emissions that pose significant risks to the health and well-being of nearby communities. This bill ensures that local air districts will have the authority to enforce strong regulations to limit these emissions. AB 1338 preserves the ability of local jurisdictions to use their expertise and knowledge of local facilities to adopt cost-effective solutions for improving air quality. By giving local air districts the flexibility to implement the most effective strategies, this bill balances regulatory oversight with local discretion.

In line with AB 2851's mission to reduce harmful emissions and protect public health, South Coast AQMD proactively implemented local regulations focused on addressing emissions from metal shredding facilities. Specifically:

Rule 1460 – Control of Particulate Emissions from Metal Recycling and Shredding Operations (adopted Nov. 4, 2022): This aims to minimize fugitive dust emissions from metal shredding

facilities through requirements like facility registration, housekeeping, best management practices, signage, and recordkeeping.

Rule 403 – Fugitive Dust (most recently amended June 3, 2005): This mandates the implementation of best available dust control measures during active operations that could generate fugitive dust."

Arguments in opposition:

None on file.

Related legislation:

- 1) SB 404 (Caballero, 2025). Establishes a comprehensive scheme for the regulation of metal shredding facilities administered by DTSC. This bill is pending action in the Senate Judiciary Committee.
- 2) AB 2851 (Bonta, Chapter 743, Statutes of 2024). Requires DTSC to require metal shredding facilities to monitor hazardous waste constituents, report on the results of that monitoring, and implement facility-wide fence-line hazardous waste constituent monitoring requirements. Requires, on or before January 1, 2027, an Air District, if their jurisdiction includes a metal shredding facility, in consultation with DTSC and OEHHA, to develop requirements for facility-wide fence-line air quality monitoring at metal shredding facilities.
- 3) SB 1234 (Allen, 2024). Would have established permitting requirements for new and existing metal shredding facilities. Would have required an owner or operator of an existing metal shredding facility, within 120 days after the effective date of this bill, to submit to DTSC, for review and approval, specified information that is required for a metal shredding facility permit. This bill was held on the suspense file in the Assembly Appropriations Committee.
- 4) SB 1249 (Hill, Chapter 756, Statutes of 2014). Authorizes DTSC to adopt regulations establishing management standards for hazardous waste management activities at metal shredding facilities until January 1, 2018.

REGISTERED SUPPORT / OPPOSITION:

Support

South Coast Air Quality Management District

Opposition

None on file

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