

California shredders could see regulation overhaul

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Pittsburgh, 19 August (Argus) – California shredders could endure sweeping changes in regulations after a state agency launched an emergency rulemaking process to redefine scrap metal and recyclable material exemptions, which could result in automotive shredder residue (ASR) and other scrap grades being classified as a hazardous waste.

The state's Department of Toxic Substances Control (DTSC) intends to open a five-day public notice and comment period for the proposed adoption of emergency regulations to revise scrap metal definitions between 31 August and 7 September, according to the DTSC notice obtained by *Argus*.

The agency is seeking immediate action to address concerns over hazardous waste in shredding operations and to ensure that shredders conduct operations compliant with the state's hazardous waste control law.

In August, the agency finalized a report on shredders across the state, which found that the non-recyclable component of metal shredder output, ASR, contained a large volume of California-regulated hazardous waste, including but not limited to fine lead, copper and zinc powders.

The DTSC argues that ASR does not meet the definition of scrap metal under California law and therefore is not exempt from regulation under the hazardous waste control law.

The group has concluded that the point of generation of hazardous waste is at the shredder itself and that all activity downstream of the hammermill constitutes hazardous waste management.

The agency claims that metal shredding facilities have erroneously concluded that they conduct recycling activities on scrap metal thus operating without the fundamentally necessary protections identified in the hazardous waste control law.

Market participants noted though that if this definition is upheld then it could leave the door open for more than ASR to be hit with stricter regulations.

California's current definition of scrap metal lacks the clarity critical to determining when an exemption to the hazardous waste control law should be granted for scrap metal, according to the agency which noted that ambiguous distinctions between state- and federally regulated scrap definitions have resulted in a situation in which it is unclear on how ASR is regulated.

The agency believes immediate adoption of the proposed rulemaking is necessary to mitigate any existing or future impacts and that clarifying the scope of what qualifies as scrap metal and what is exempt when recycled, will help to ensure that metal shredding facilities conduct operations in a manner compliant with the hazardous waste control law.

Leading up to the emergency proposal, the DTSC said it took various regulatory actions with shredders.

In the notice, the DTSC listed four instances where it was forced to issue citations to shredders since 2018 with all matters still under ongoing enforcement.

Industry questions 'emergency' status

The emergency status of the notice caught many recyclers and industry groups across the state by surprise as market participants noted they have been working with the DTSC over the last few years regarding associated matters.

The California Metal Recyclers Coalition (CMRC) told *Argus* that the group is deeply concerned that the proposal is being promulgated as an emergency rulemaking process.

"No matter the intended outcome of the proposal, the fact is there is no emergency, nor any threat, posed by the targeted facilities," CMRC said.

Other industry groups shared similar sentiment noting that the five-day public comment period is insufficient.

Industry trade group the California Metals Coalition (CMC) is against the emergency ruling because its disregards the efforts by recyclers and various organizations over recent years to work with the state on environmental and regulatory matters.

"CMC opposes a five-day emergency ruling on an item that we have spent multiple years working with the state on," the group said.

California recyclers surveyed by *Argus* said that they have task forces and lawyers reviewing the notice and mostly agreed that they do not believe the situation is an emergency.

On the national level, the Institute for Scrap Recycling Industries (ISRI) is reviewing the proposal and said that it supports its members in California.

Shredder costs vulnerable to swing

Market participants said that the hazardous waste designation for ASR would likely result in higher disposal costs because of the new classification, while limited hazardous waste dumps would likely create further challenges and fees for disposal.

Up to this point, ASR in the state has mostly been treated with an organic compound and used as daily cover at landfills, sources said.

Overall though, until the process moves further along market participants noted it is difficult to comment on how the proposed rule would affect the industry overall because it could still be subject to changes, appeals or litigation.

There are eight automobile shredders throughout California. SA Recycling operates three around Los Angeles at its Terminal Island, Bakersfield and Anaheim locations. Ecology has one in Colton near San Bernadino. Sims operates one shredder in Redwood City, while Schnitzer operates one in Oakland and Universal Service Recycling has one in Stockton.

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