



Matthew Rodriguez
Secretary for
Environmental Protection



Department of Toxic Substances Control

Deborah O. Raphael, Director
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P.O. Box 806
Sacramento, California 95812-0806



Edmund G. Brown Jr.
Governor

June 13, 2013

Ms. Alice Sterling
436 Sunbonnet Street
Simi Valley, California 93065
(alicesterling@earthlink.net)

Dear Ms. Sterling:

This letter is to provide a fuller update to your recent inquiries to Debbie Raphael, Director of the Department of Toxic Substances Control (DTSC) regarding the generation, classification, and disposal of metal shredder residue, or autoshredder waste.

In your letters, you sought specific answers or insights about the decision letters that then Toxic Substances Control Program of the Department of Health Services (DHS) (the predecessor to the Department of Toxic Substances Control) issued to the metal shredders under the authority of subdivision (f) of Section 260.200 of the California Code of Regulations or the policy that was formulated and implemented at that time (Policy and Procedure 88-6). Many of your questions asked about the "intent" of the DHS or the DTSC at the time the decisions were made. Other questions asked about the level of knowledge possessed by then decision makers at DHS or DTSC regarding elements of the site activities and waste management practices and their relevance to the previously issued decision letters.

Given the age of the decision letters (some issued as long ago as February 1986), the passage of time, and numerous changes in Directors and DTSC management, it is impossible to answer your questions about intent or knowledge because no single individual within DTSC was solely responsible for the decisions that were made over that span of time. The available files do not contain information that would lend itself to answer these questions. It is important to note, however, that because the wastes ceased being hazardous wastes when the decisions were made, many of the hazardous waste regulatory requirements were no longer applicable, and DTSC oversight largely stopped (although as you have pointed out there were intermittent periods of evaluation and DTSC activity through the intervening years).

Although we cannot answer the questions you raise about the historical events leading to our current circumstances, the questions you raise are focusing on the root question that DTSC also shares: Is metal shredder residue accurately characterized by the previous nonhazardous waste determinations, and are the industry's practices pertaining to its generation and management and ultimate disposal protective of public health and safety and the environment? It is in the interest of obtaining information that can answer these questions that Director Raphael has met with industry representatives, and has led DTSC to continue its conversation with this industry.

Industry's first response to the Director's questions was the technical memorandum that it provided to DTSC in May 2012. DTSC did not find the memorandum to be adequate in answering the questions about the treatment or its effectiveness. Rather than invest more time or effort in the memorandum, DTSC staff focused on the information needed to evaluate the current treatment process and its effectiveness, and the methodology that could produce that type of information. DTSC staff provided guidance documents and other information about "treatability studies," a study method often used by USEPA and other regulatory agencies to inform regulatory decisions (see the enclosed guidance, which was provided to the industry on October 15, 2012).

The general message DTSC provided to the industry is that by conducting a study that conforms to the standards described in the guidance documents and examples provided, DTSC will have the basis on which to assess the industry's assertions about the limits to treating auto shredder residue, and to better assess the effectiveness of the treatment processes being used. DTSC has requested that the industry provide a workplan by which this study will be conducted. Having a workplan to review will give DTSC (and all interested stakeholders) the opportunity to review and comment before anything is implemented, and will help to generate useful and reliable data.

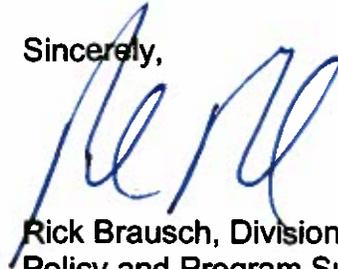
Path Forward

As you have been pressing for, and as Director Raphael has committed, DTSC is now ready to fully evaluate its past decisions and take a renewed look at this industry and its waste generation and management activities. DTSC's goal is to ensure that management practices are in place that are fully protective of public health and the environment, and that the standards can be enforced and enforced to protect public health and the environment. In the coming weeks DTSC will be unveiling a web page with relevant historical information, a description of our evaluation plans with key dates and milestones, and a description of opportunities for public involvement and comment in the evaluation and any recommendations that follow.

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I look forward to sharing more details and to working with you and other stakeholders as we move forward on this critical evaluation. I also look forward to hearing any feedback or suggestions you might have on the information we make available. Thank you for your continuing interest. If you have any additional questions, please call me at (916) 327-1186, or email at rick.brausch@dtsc.ca.gov.

Sincerely,



Rick Brausch, Division Chief
Policy and Program Support Division
Hazardous Waste Management Program

Enclosures

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