

# Oakland Athletics Strike Out: California Appellate Court Rejects Team's Petition Seeking Regulation of Metal-Shredding Operation Under California Hazardous Waste Law



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The California Court of Appeal (First District – Division 3) (“Court of Appeal”) in a September 30th Opinion addressed The Oakland Athletics’ (The Athletics Investment Group, LLC) (“Athletics”) argument that the California Department of Toxic Substances Control (“Department”) must regulate what is described as a metal-shredding operation under the California Hazardous Waste Control Law (“HWCL”). See 2022 WL 4591846.

The Athletics alleged that the Department failed to comply with amendments to the HWCL that subjected metal shredders to certain provisions of the statute.

Schnitzer Steel Industries, Inc. (“SSI”) was identified in a Petition for Writ of Mandate (“Petition”) filed by the Athletics as the Real Party in interest. SSI is stated to maintain a metal-shredding operation (“Facility”) in West Oakland, California. The Athletics maintain business operations near the Facility. Further, they stated that the team was:

... in the process of seeking approvals to build a ballpark for major league baseball games and other events in close proximity to the Facility.

The Petition further stated that the Facility’s metal shredder had for a number of years been exempted from the HWCL because of a variance issued by the Department from the HWCL. The variance was described as an “f letter.”

The Athletics alleged that in 2014 the California Legislature enacted a bill requiring the Department to apply the HWCL to facilities that shred automobiles. The team argued that the bill included a legislative directive that the Department rescind any operative “f letters.” The Department was alleged to have violated a January 1, 2018, deadline and failed to revoke the previously referenced variance.

The Petition requested that the Superior Court of California (for the County of Alameda) require that the Department rescind the “f letter” for the previously referenced class of facilities.

The Court of Appeal in its September 30th Opinion stated that metal shredders must comply with the HWCL in full. However, it also stated, once a legislatively-mandated study by the Department confirmed

that metal-shredding waste has been appropriately treated, that it could be safely handled and disposed of as nonhazardous.

The Department had undertaken such study.

The Court of Appeal referenced the study and stated that there is:

. . . no threat to human health or the environment from managing treated metal-shredder waste as nonhazardous.

It further stated:

Schnitzer's (f) letter authorizing this practice was issued pursuant to an HWCL regulation, and the record reveals no basis for concluding it does not still comply with the HWCL. Thus, on this record section 25150.82 does not impose a mandatory duty on the Department to rescind Schnitzer's (f) letter.

A copy of the Opinion can be downloaded [here](#).