

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 404

Introduced by Senator Caballero
(Coauthors: Senators Arreguín and Grayson)
(Coauthor: Assembly Member Gipson)

February 14, 2025

An act to amend Section 25117 of, to add Chapter 6.4 (commencing with Section 25095) to Division 20 of, and to repeal Sections 25150.82, 25150.84, and 25150.86 of, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 404, as amended, Caballero. Hazardous materials: metal shredding facilities.

Existing law authorizes the Department of Toxic Substances Control (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 to establish management standards for metal shredding facilities for hazardous waste management activities within *the* DTSC's jurisdiction, as provided. Existing law provides that treated metal shredder waste that is managed in accordance with those regulations is deemed to be solid waste, and not hazardous waste, as provided.

This bill would repeal those ~~provisions and provisions~~. *The bill would establish a comprehensive scheme for the regulation of metal shredding facilities. facilities that would be administered by the DTSC pursuant to authority separate from laws governing the control of hazardous waste.* The bill would prohibit an owner or operator from operating a metal shredding facility, as defined, in the state unless they have a

permit from *the* DTSC or are deemed to have a permit. The bill would prescribe the requirements for obtaining a permit, for being deemed to have a permit, for operating a metal shredding facility, and for transporting certain materials related to metal shredding, as specified. *The bill would require, before a decision is made to approve or deny the application, the DTSC to hold a public meeting or solicit comment from the community on the completed application materials, as provided.* The bill would provide that certain materials related to metal shredding are not hazardous waste if they meet specified requirements. The bill would require any report required to be submitted by a metal shredding facility pursuant to a permit issued to be signed by the owner or operator and be certified under penalty of law, including criminal penalties, as specified. Because the bill would expand the scope of a crime, the bill would impose a state-mandated local program. The bill would require an owner or operator of a metal shredding facility to report to *the* DTSC any release or threatened release of a hazardous substance and certain emergency situations, as specified. The bill would require an owner or operator of a metal shredding facility to submit to *the* DTSC a closure plan and a cost estimate for closing the metal shredding facility, as specified. The bill would authorize *the* DTSC to enforce these provisions by revoking permits and by other specified means. ~~The bill would require the department to develop, on or before July 1, 2027, a procedure for community notification of the public for the area in which the metal shredding facility is located, if monitoring indicates any release of light fibrous material, and to develop, on or before January 1, 2027, related regulations, as provided.~~ The bill would require *the* DTSC to adopt regulations for the operation of metal shredding facilities. *The bill would require the DTSC to post information provided by owners and operators regarding a metal shredding facility on the department's internet website in a manner that is readily accessible to the public, with the exception of information that is submitted to the department under a claim of trade secrecy or business confidentiality and that has been determined by the department to be exempt from disclosure, as provided.*

Existing law authorizes *the* DTSC to collect an annual fee from all metal shredding facilities subject to the requirements of hazardous waste control laws or *the* DTSC's management standards for metal shredding facilities, as provided. Existing law requires *the* DTSC to adopt regulations necessary to administer the fee and authorizes *the* DTSC to adopt those regulations using emergency procedures, as provided. Existing law requires the Controller to establish a separate subaccount

in the Hazardous Waste Control Account and for all fees collected to be placed into that subaccount, to be available for expenditure by *the* DTSC upon appropriation by the Legislature.

This bill would instead require *the* DTSC to impose an annual fee on all metal shredding facilities subject to the provisions of this bill, as specified. The bill would require *the* DTSC to adopt regulations necessary to administer the fee and would authorize *the* DTSC to adopt the regulations using the same emergency procedures, as specified. The bill would require the Controller to establish a separate subaccount in the Hazardous Waste Control Account and would require all fees collected to be placed into that subaccount, to be available for expenditure by *the* DTSC for purposes of implementation and administration of the provisions of the bill, upon appropriation by the Legislature.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 6.4 (commencing with Section 25095)
- 2 is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.4. METAL SHREDDING FACILITIES

Article 1. Findings and Declarations

25095. (a) The Legislature finds and declares all of the following:

~~(a)~~

(1) Metal shredding facilities are essential to a thriving circular economy in the State of California because they provide an efficient, reliable, and effective means of recycling the millions of tons of recyclable metal, including end-of-life vehicles and household appliances, that are generated annually in the state.

~~(b)~~

(2) Metal shredding facilities enable the recycling of end-of-life metal products and other metal-containing materials by reducing them in size and facilitating the recovery of ferrous and nonferrous metals and other recyclable commodities. These activities conserve energy and natural resources and support the state's goal of reducing the emissions of greenhouse gases and combating climate change.

~~(c)~~

(3) Metal shredding facilities differ in important respects from waste management facilities. For this reason, regulation and oversight of metal shredding facilities are most appropriately addressed through requirements that are specific to the metal shredding industry while fully protecting human health and the environment. It is the intent of the Legislature that metal shredding facilities be regulated pursuant to this chapter and not Chapter 6.5 (commencing with Section 25100).

~~(d)~~

(4) The purpose of this chapter is to establish operating standards and other requirements applicable to metal shredding facilities and to resolve ongoing legal disputes over the regulatory status of metal shredding facilities *that operate* in the state. The department, the metal shredding industry, and neighboring communities would all benefit from clear, enforceable requirements to govern oversight of metal shredding facilities and their operations and to proactively protect public health and the environment.

~~(e)~~

(5) Metal shredding operations have the potential to release hazardous materials and impact neighboring communities and the environment if the materials are not properly managed.

~~(f) Nothing in this chapter is intended to~~

(6) *This chapter does not* alter or override the authority of any other federal, state, or local agency with jurisdiction to regulate the activities of a metal shredding facility in accordance with any other applicable law.

(7) *This chapter does not impair the rights of any person under any state or federal law.*

(b) It is the intent of the Legislature that this chapter be implemented in a manner that achieves both of the following:

(1) Promotes the economic viability of all metal shredding facilities, regardless of size, so as to ensure the continued capacity of the state to manage the large volume of scrap metal that is produced in California every year.

(2) Is protective of all communities, including those that have been designated as disadvantaged or vulnerable pursuant to state law.

Article 2. Definitions and General Provisions

25095.1. For purposes of this chapter, the following definitions apply:

(a) “Ancillary hazardous waste” means any hazardous waste generated at the facility other than metal shredder residue managed pursuant to this chapter.

(b) “Chemically treated metal shredder residue” or “CTMSR” means the waste generated from the ~~shredding~~ and processing of *shredded* metallic materials, which may include, but is not limited to, end-of-life vehicles, appliances, and other metal-containing items, by a metal shredding facility where recoverable ferrous or nonferrous metals have been removed and the remaining metal shredder residue has been treated by a waste stabilization process, as described in this chapter.

(c) “Corrective action” means all actions necessary to mitigate any public health or environmental threat resulting from a release into the environment of hazardous substances from an operating or closed metal shredding facility and to restore the environmental

1 conditions as necessary to protect human health and the
2 environment.

3 (d) “Department” means the Department of Toxic Substances
4 Control.

5 (e) “Effective date” means the date that this chapter becomes
6 operative.

7 (f) “Existing metal shredding facility” means a metal shredding
8 facility that is conducting metal shredding and metal processing
9 operations as of the date that the act adding this chapter is signed
10 into law by the Governor.

11 (g) “Feedstock” means material received by a metal shredding
12 facility before shredding and processing, including, but not limited
13 to, end-of-life vehicles, household appliances, or other forms of
14 light gauge metal suitable for processing in a metal shredder.
15 “Feedstock” is often referred to as light iron or tin.

16 (h) “Light fibrous material” means a fibrous mixture of
17 nonmetallic materials, including, but not limited to, synthetic fabric
18 and carpet fibers, and entrained metallic particles, often
19 representing the lightest fraction of metal shredder aggregate
20 produced from the shredding of end-of-life vehicles and other
21 metallic items, that is susceptible to dispersal into the environment.

22 (i) “Metal processing operations” means the stockpiling and
23 handling of metal shredder aggregate, the operations undertaken
24 to separate, sort, and remove ferrous or nonferrous scrap metal
25 from metal shredder aggregate, and the treatment and storage of
26 metal shredder residue. “Metal processing operations” does not
27 include shredding, crushing, baling, shearing, cutting, or other
28 metal recycling operations unrelated to the handling of metal
29 shredder aggregate.

30 (j) “Metal products” means all ferrous and nonferrous metals
31 that have been removed from metal shredder aggregate or from
32 metal shredder residue.

33 (k) “Metal shredder aggregate” means the mixture of shredded
34 metallic and nonmetallic materials that is produced by the
35 shredding of metallic feedstock and that is subsequently processed
36 for the purpose of separating, sorting, and removing ferrous metals,
37 nonferrous metals, or other recyclable commodities from
38 nonrecyclable materials. “Metal shredder aggregate” does not
39 include (1) metals that have been removed from metal shredder
40 aggregate, or (2) metal shredder residue. “Metal shredder

1 aggregate” is an in-process material and is not a waste or a
2 hazardous waste.

3 (l) “Metal shredder residue” means waste comprising shredded
4 plastics, rubber, glass, foam, fabric, carpet, wood, dirt, or other
5 debris, that remains after recoverable ferrous and nonferrous metals
6 or other recyclable commodities have been separated and removed
7 from metal shredder aggregate. “Metal shredder residue” does not
8 include chemically treated metal shredder residue.

9 (m) “Metal shredding facility” means the entire site and all
10 contiguous properties under the control of the owner or operator
11 of a facility that uses a ~~shredding technique~~, *stationary or mobile*
12 *shredder*, such as a hammer mill *or other shredding technique*, to
13 process end-of-life vehicles, appliances, or other metallic feedstock
14 materials in order to facilitate the separation, sorting, or removal
15 of recoverable ferrous or nonferrous metals from nonrecyclable
16 materials. “Metal shredding facility” does not include a feeder
17 yard, a metal crusher, *a metal shear*, or a metal baler if that facility
18 does not conduct metal shredding operations.

19 (n) “New metal shredding facility” means a metal shredding
20 facility that had not commenced metal shredding and metal
21 processing operations as of the effective date of this chapter.

22 (o) “Operator” means the person responsible for the overall
23 operation and management of a metal shredding facility.

24 (p) “Owner” means a person who owns a metal shredding
25 facility in whole or in part.

26 (q) “Person” means any of the following:

27 (1) An individual, trust, firm, joint stock company, business
28 concern, partnership, limited liability company, association, or
29 corporation, including, but not limited to, a governmental
30 corporation.

31 (2) A city, county, district, commission, the state, and any
32 department, agency, or political subdivision thereof.

33 (3) An interstate body.

34 (4) The federal government and any department or agency
35 thereof, to the extent permitted by law.

36 (r) “Scrap metal” has the same meaning as provided in Section
37 66260.10 of Title 22 of the California Code of Regulations.

38 25095.2. ~~Reserved.~~ *The following facilities are not subject to*
39 *this chapter:*

1 (a) *Facilities that shred only e-waste subject to regulation under*
2 *Chapter 23 (commencing with Section 66273.1) of Division 4.5 of*
3 *Title 22 of the California Code of Regulations.*

4 (b) *Facilities that shred wood or wood products that may contain*
5 *ancillary metal components, including, but not limited to, screws,*
6 *bolts, metal ties, and metal strapping.*

7 (c) *Facilities that shred only automotive tires.*

8 (d) *A feeder yard, metal crusher, metal shear, or metal baler if*
9 *that facility does not conduct metal shredding operations.*

10 25095.3. Metal shredding facilities that are subject to regulation
11 and comply with this chapter are not hazardous waste facilities,
12 however this chapter does not alter or override the authority of the
13 department to regulate ancillary hazardous waste generated at a
14 metal shredding facility in accordance with Chapter 6.5
15 (commencing with Section 25100) and Division 4.5 (commencing
16 with Section 66250) of Title 22 of the California Code of
17 Regulations.

18 25095.4. (a) On the operative date of this chapter, the
19 department's Official Policy and Procedure 88-6, titled "Auto
20 Shredder Waste Policy and Procedures" dated November 21, 1988,
21 is hereby repealed.

22 (b) On the operative date of this chapter, any ~~nonhazardou~~
23 ~~nonhazardous~~ waste determination issued by the department or
24 its predecessor, the State Department of Health Services, to any
25 metal shredding facility pursuant to Section 66260.200(f) of Title
26 22 of the California Code of Regulations is hereby repealed.

27 25095.5. A citation or reference in this chapter to a requirement
28 of the regulations in Division 4.5 (commencing with Section
29 66260.1) of Title 22 of the California Code of Regulations shall
30 be understood to apply the technical requirements of the regulation
31 to metal shredding operations authorized pursuant to this chapter.
32 All citations or references to those requirements shall be to the
33 provision as it read on the effective date.

34 25095.6. This chapter does not limit the authority of a local
35 air pollution control district or air quality management district, as
36 defined in Section ~~39025~~ 39025, *or the authority of a certified*
37 *unified program agency, as defined in Section 25404.*

38 25095.7. The department may adopt regulations as necessary
39 to implement this chapter, and thereafter may update and revise
40 the regulations from time to time, consistent with this chapter. The

1 department shall adopt regulations to implement Section 25095.50,
2 relating to the imposition of fees on metal shredding facilities.

3
4 Article 3. Permits and Operations
5

6 25095.10. (a) (1) Except as provided in paragraph (2), a metal
7 shredding facility shall not operate in California, unless it has a
8 permit issued by the department.

9 (2) On and after the effective date, an existing metal shredding
10 facility operating in compliance with the requirements of this
11 chapter may continue to operate pending final action on a permit
12 application as specified in this section. Except as provided in this
13 section, nothing herein shall prevent the department from taking
14 enforcement action pursuant to Article 8 (commencing with Section
15 25095.60) before issuance of a final permit.

16 (3) Any permit approved by the department pursuant to this
17 chapter shall include a reference to all permits issued to the facility
18 by other environmental regulatory agencies. Any action taken by
19 the department pursuant to this chapter shall be consistent with
20 the requirements imposed by those regulatory agencies. The
21 department shall evaluate how to apply to metal shredding facilities
22 its policies relating to environmental justice and the protection of
23 vulnerable communities or sensitive receptors and other sensitive
24 locations as described in subdivisions (b) and (c) of Section
25 25200.21.

26 (4) Any permit action shall consider the conclusions and
27 recommendations set forth in a community emissions reduction
28 program prepared pursuant to Section 44391.2 and any other health
29 risk assessment conducted by a local air district pursuant to the
30 Air Toxics “Hot Spots” Information and Assessment Act of 1987
31 (Part 6 (commencing with Section 44300) of Division 26) or other
32 applicable law. If an air quality health risk assessment has not been
33 conducted, the owner or operator of the facility shall conduct an
34 analysis of equivalent scope and depth as approved by the local
35 air district.

36 (5) Each permit issued under this chapter shall set forth
37 inspection, entry, monitoring, compliance certification, and
38 reporting requirements to assure compliance with the permit terms
39 and conditions. Any report required to be submitted by a metal
40 shredding facility pursuant to a permit issued under this chapter

1 shall be signed by the owner or operator and shall be certified
2 under penalty of law in the manner specified in Section 66270.11
3 of Title 22 of the California Code of Regulations.

4 (b) (1) A person who submitted a hazardous waste facility
5 permit application pursuant to Chapter 6.5 (commencing with
6 Section 25100) to treat metal shredder residue before the effective
7 date may withdraw that application and conduct those treatment
8 operations pursuant to this chapter.

9 (2) Within 30 days of the effective date, the owner or operator
10 of an existing metal shredding facility shall submit a notice of
11 intent to apply for a permit. Thereafter, the owner or operator of
12 an existing metal shredding facility shall apply for a permit
13 pursuant to this chapter no later than six months following
14 submittal of the notice of intent and shall provide all of the
15 following information to the department:

16 (A) A description of the metal processing operations conducted
17 at the metal shredding facility, including all equipment used for
18 this purpose.

19 (B) A metal shredding facility inspection plan, including,
20 without limitation, inspection of the area surrounding the
21 hammermill and all downstream metal processing equipment where
22 light fibrous material is likely to accumulate.

23 (C) A closure plan.

24 (D) A current closure cost estimate.

25 (E) A corrective action cost estimate, if any.

26 (F) A metal shredding facility housekeeping plan that includes,
27 but is not limited to, daily cleanup of light fibrous material that is
28 susceptible to dispersal beyond the hammermill.

29 (G) An inventory management plan.

30 (H) A preparedness and prevention plan consistent with the
31 requirements of Article 3 (commencing with Section 66265.30)
32 of Chapter 15 of Division 4.5 of Title 22 of the California Code
33 of Regulations.

34 (I) A contingency plan consistent with the requirements of
35 Article 4 (commencing with Section 66265.50) of Chapter 15 of
36 Division 4.5 of Title 22 of the California Code of Regulations.

37 (J) A flood plain map, if applicable.

38 (K) Evidence of financial assurance consistent with the
39 requirements of Article 8 (commencing with Section 66265.140)

1 of Chapter 15 of Division 4.5 of Title 22 of the California Code
2 of Regulations.

3 (L) A plan describing any offsite or out-of-state transportation
4 and processing of metal shredder aggregate and metal shredder
5 residue, including, but not limited to, the estimated amount of
6 material that is transported, the identity and federal Standard
7 Industrial Classification code of the receiving facility, the estimated
8 amounts of metals that are recovered from the material that is
9 transported offsite, the required insurance, and any other
10 information requested by the department to evaluate whether metal
11 recycling operations are being conducted at the receiving facility.

12 (3) The department shall post all information provided by the
13 owner or operator of an existing metal shredding facility pursuant
14 to paragraph (2) on the department's internet website in a manner
15 that is readily accessible to the public, with the exception of
16 information that is submitted to the department under a claim of
17 trade secrecy or business confidentiality and that has been
18 determined by the department to be exempt from disclosure under
19 the California Public Records Act (Division 10 (commencing with
20 Section 7920.000) of Title 1 of the Government Code).

21 (4) The department shall review the permit application submitted
22 pursuant to paragraph (2) of subdivision (b) as expeditiously as
23 possible and shall approve, modify, or deny the application. The
24 department may impose additional facility-specific conditions that
25 are necessary to ensure compliance with this chapter and for the
26 protection of human health and the environment. The department
27 shall provide the owner or operator of the metal shredding facility
28 with written findings explaining the basis for any such conditions.

29 (5) In reviewing any plan submitted pursuant to subparagraph
30 (L) of paragraph (2), the department may request additional
31 information from the owner or operator as necessary to determine
32 the legitimacy of the offsite metal processing operations described
33 in the plan, and may require modifications to the plan, or
34 disapprove the plan, if the department determines that the receiving
35 facility is not engaged in legitimate metal recycling.

36 (6) In considering an application for a metal shredding facility
37 permit submitted pursuant to this subdivision, the department shall
38 consider the site-specific aspects of the metal shredding facility,
39 including, but not limited to:

40 (A) The nature of the surrounding community and environment.

1 (B) The results of any community-specific assessment.

2 (C) The facility size, location, and configuration.

3 (D) The equipment, enclosures, and infrastructure.

4 (E) The specific metal processing operations conducted at the
5 metal shredding facility, including types of feedstocks and annual
6 throughput.

7 (F) Other relevant site-specific characteristics.

8 (c) (1) The owner or operator of a new metal shredding facility
9 shall submit an application to the department for a permit and shall
10 not commence operations at the new metal shredding facility until
11 the department issues a permit.

12 (2) The application shall consist of both of the following:

13 (A) All the information described in paragraph (2) of subdivision
14 (b).

15 (B) Any other information requested by the department relating
16 to construction or operation of the new metal shredding facility.

17 (d) (1) The approval of an application for an existing or new
18 metal shredding facility shall be considered a discretionary decision
19 subject to the California Environmental Quality Act ((CEQA)
20 Division 13 (commencing with Section 21000) of the Public
21 Resources Code). Nothing in this chapter is intended to modify,
22 restrict, or expand the provisions of CEQA as applied to metal
23 shredding facilities.

24 (2) The department may require an applicant for a metal
25 shredding facility permit to submit additional information in
26 support of an application.

27 (e) A permit issued pursuant to this section shall authorize the
28 storage and processing of metal shredder aggregate and the onsite
29 chemical treatment of metal shredder residue conducted at the
30 metal shredding facility. A metal shredding facility that begins
31 chemical treatment of metal shredder residue for the first time after
32 the effective date shall notify the department no later than 30 days
33 before commencement of treatment operations at the facility and
34 shall provide the department with all information required by this
35 chapter relating to the chemical treatment operations within 120
36 days of commencement of operations. This section does not require
37 a permit for the operation of a hammermill or other equipment
38 used at a metal shredding facility that does not involve the handling
39 of metal shredder aggregate or chemical treatment of metal
40 shredder residue.

1 (f) (1) Any permit for a metal shredding facility approved under
2 this chapter shall be for a fixed term of 10 years, unless the
3 department determines that a shorter term is necessary to protect
4 human health, safety, or the environment or based on the
5 compliance history of the facility.

6 (2) At least two years before the expiration of a permit, the
7 owner or operator of a metal shredding facility intending to renew
8 the facility's permit shall submit a complete application for permit
9 renewal, pursuant to this section, that has been updated to reflect
10 the current operations of the facility.

11 (3) The department shall review the information and either
12 determine the submission is complete or request additional
13 information from the owner or operator. If the application to renew
14 the permit is submitted before the end of the fixed term, the permit
15 shall be deemed extended until the department has taken final
16 action to renew or deny the renewal application and the owner or
17 operator has exhausted all applicable rights of appeal.

18 (4) When prioritizing pending renewal applications for review
19 and in determining the need for any new conditions on a renewed
20 permit, the department shall consider any input received from the
21 public.

22 (g) The department shall consider the compliance history of the
23 metal shredding facility, including the requirements of any permit
24 issued by any other agency in reviewing the facility's application
25 for permit renewal and in considering the need for additional
26 conditions to be included in the permit.

27 (h) (1) The requirements of this subdivision apply to all permit
28 applicants.

29 (2) Before the submission of a permit application or application
30 for permit renewal for a metal shredding facility, the applicant
31 shall hold at least one public meeting, or other community
32 engagement activity approved by the department, to inform the
33 community of metal processing activities and any potential impacts
34 to nearby communities and solicit questions and input from the
35 public. The applicant shall prepare a sign-in sheet for the meeting
36 and allow all attendees an opportunity to provide their names and
37 addresses. The public meeting or community engagement activity
38 shall be noticed to the community at least 30 days in advance and
39 be held in an accessible location at a convenient time.

(3) The applicant shall submit a summary of the meeting or activity described in paragraph (2), and a list of attendees and their addresses voluntarily provided pursuant to paragraph (2), if any, and copies of any written comments or materials submitted, if any, to the department as a part of the permit application or application for permit renewal. The summary of the pre-application meeting or activity shall be inclusive of, but not limited to, all of the following:

(A) A summary of the metal shredding facility's communications to the public about proposed or then current metal processing activities and their potential impacts on nearby communities.

(B) A summary of public input and questions.

(C) Responses to public input and questions and how public input has informed the application materials, if applicable.

(4) After the submission of a complete permit application or application for permit renewal for a facility and before a decision is made to approve or deny the application, the department shall hold a public meeting or solicit comment from the community on the completed application materials. *The facility, and before the public meeting described in paragraph (5), the department shall schedule periodic progress meetings to inform the community of the status of the permitting process. Meetings shall be held pursuant to this paragraph at least once per year and shall be noticed and convened as specified in paragraph (2).*

(5) *Before a decision is made to approve or deny the application, the department shall hold a public meeting or solicit comment from the community on the completed application materials. The public comment period shall be open for a minimum of 45 days. The department shall respond to all public comments within 60 days of the close of the public comment period. The public comments and the department's responses to the comments shall be included in the administrative record for the permit proceeding and in the department's notice of its intended decision to approve or deny the permit.*

~~(5)~~

(6) Before initiating a public outreach process, the department and the owner or operator of a metal shredding facility shall solicit and incorporate feedback from the surrounding community to determine a locally appropriate process for community engagement.

1 25095.11. Notwithstanding Section 25095.10, an owner or
2 operator of a metal shredding facility that has submitted a permit
3 application and is unable to comply with all the requirements of
4 this chapter as of the effective date may continue to operate pending
5 the department's review and approval or denial of the permit
6 application, if all of the following requirements are met:

7 (a) The owner or operator identifies in its application each
8 provision of this chapter that the facility is unable to immediately
9 comply with.

10 (b) The owner or operator has developed and implements a
11 written plan for the prevention, detection, and suppression of fires
12 that meets the requirements of subdivision (b) of Section 25095.13.

13 (c) The owner or operator initiates, diligently pursues, and
14 implements financial assurance for closure and third-party liability
15 as required pursuant to Section 25095.41, including, but not limited
16 to, both of the following:

17 (1) The owner or operator submits to the department a cost
18 estimate and closure plan as part of the permit application.

19 (2) Within 30 days after the permit application is submitted, the
20 owner or operator submits to the department a financial assurance
21 mechanism that is equivalent to the requirements set forth in
22 Sections 66264.143 and 66264.147 of Title 22 of the California
23 Code of Regulations.

24 (d) The owner or operator initiates and diligently pursues to
25 completion a preliminary endangerment assessment, as required
26 pursuant to Section 25095.30, or otherwise meets the requirements
27 in Section 25095.30 and initiates any required actions identified
28 in the preliminary endangerment assessment.

29 (e) The owner or operator complies with the standards set forth
30 in Chapter 12 (commencing with Section 66262.10) of Division
31 4.5 of Title 22 of the California Code of Regulations with respect
32 to all ancillary hazardous wastes.

33 (f) The owner or operator shall maintain all existing practices
34 and controls designed to prevent the possibility of any unplanned
35 sudden or nonsudden release of any of the following into air, soil,
36 or surface water that could threaten human health or the
37 environment that are in effect or are otherwise required by the
38 department on or before the effective date of this chapter:

39 (1) In-process materials or components thereof, including metal
40 shredder aggregate and light fibrous material.

1 (2) Hazardous waste.

2 (3) Hazardous waste constituents.

3 25095.12. The owner or operator of a metal shredding facility
4 shall operate the metal shredding facility in accordance with all
5 of the following requirements:

6 (a) The metal shredding facility shall be ~~designed, constructed,~~
7 ~~maintained,~~ *maintained* and operated to minimize the possibility
8 of a fire, explosion, or any unplanned sudden or nonsudden release
9 of in-process materials or components thereof, including metal
10 shredder aggregate and light fibrous material, into air, soil, or
11 surface water that could threaten human health or the environment
12 ~~by using all appropriate, reasonably available, implementing all~~
13 ~~reasonable and feasible operational or engineering methods.~~
14 *methods of control or other means, taking into consideration the*
15 *size, configuration, and location of the facility, the characteristics*
16 *of the materials handled, and other relevant factors.*

17 (b) (1) The owner or operator of the metal shredding facility
18 shall develop and follow an inbound source control policy designed
19 to prevent the shredding of any of the following materials or wastes
20 at the facility:

21 (A) RCRA hazardous waste, as defined in Section 66261.100
22 of Title 22 of the California Code of Regulations, and non-RCRA
23 hazardous waste, as defined in Section 66261.101 of Title 22 of
24 the California Code of Regulations.

25 (B) Asbestos and asbestos-containing materials, except
26 incidental asbestos-containing material that may be contained
27 inside equipment and is not visible upon inspection.

28 (C) Radioactive materials.

29 (D) Petroleum-based wastes, including, but not limited to, used
30 oil as defined in Section 25250.1, gasoline, and diesel, but not
31 including non-free-flowing residual quantities of such wastes
32 contained in depolluted vehicles or appliances.

33 (E) Polychlorinated biphenyls (PCB) materials and wastes,
34 including, but not limited to, capacitors, electrical transformers,
35 and transformer components.

36 (F) Fluorescent light ballasts, fluorescent lamps, neon, and
37 high-intensity or mercury vapor lights.

38 (G) Military ordnance, except ordnance designated specifically
39 as Material Designated as Safe (MDAS).

1 (H) Explosives, explosive residues, fireworks, and other
2 incendiary materials.

3 (I) Regulated electronic waste.

4 (J) Mercury containing devices.

5 (K) Batteries, including, but not limited to, lead-acid batteries
6 and lithium-ion batteries.

7 (L) Compressed gas cylinders and propane canisters, unless
8 empty and disabled.

9 (2) The inbound source control policy shall contain all of the
10 following:

11 (A) A written description of the load checking protocol designed
12 to prevent materials or wastes identified in paragraph (1) from
13 being shredded at the facility. Incoming feedstock subject to load
14 checking shall not be shredded until the load-checking process has
15 been completed.

16 (B) A written description of the process for rejecting loads,
17 specific materials, or wastes that contain the materials or wastes
18 identified in paragraph (1).

19 (C) A plan and template documents used to demonstrate that
20 load checks are conducted and that materials or wastes identified
21 in paragraph (1) are not accepted.

22 (D) A requirement to maintain all documentation related to the
23 inbound source control policy and load checking the facility for
24 at least five years and provide the documentation to the department
25 upon request.

26 (E) A written description of a process to make a waste
27 determination pursuant to Section 66262.11 of Title 22 of the
28 California Code of Regulations for any of the materials or wastes
29 listed in paragraph (1) that are identified ~~in~~ *after completion of the*
30 ~~load check and rejected.~~ *process and that were unknowingly*
31 *accepted by the facility.* Any waste determined to be a hazardous
32 waste shall be considered generated at the metal shredding facility
33 and shall be managed as a hazardous waste in accordance with
34 Chapter 6.5 (commencing with Section 25100).

35 (c) The owner or operator of the metal shredding facility shall
36 develop and implement procedures for any depollution operations
37 that are conducted at the metal shredding facility involving the
38 removal of automotive fuels, lubricating oils, refrigerants, and
39 materials that require special handling, as defined in Section 42167
40 of the Public Resources Code, including procedures for the proper

1 management of those materials or wastes that are removed during
2 depollution operations, pursuant to Section 25212.

3 (d) (1) The owner or operator of the metal shredding facility
4 shall maintain all of the following documents at the metal shredding
5 facility:

6 (A) A written inspection schedule meeting the substantive
7 requirements of subdivision (b) of Section 66265.15 of Title 22
8 of the California Code of Regulations.

9 (B) A written description of training documents, including a
10 syllabus or outline, of the type and amount of both introductory
11 and continuing training that has been given to each person at the
12 metal shredding facility.

13 (C) A contingency plan that contains the information specified
14 in Section 66265.52 of Title 22 of the California Code of
15 Regulations.

16 (D) A copy of any local air quality management district or air
17 pollution control district permit and other governmental permits
18 or approvals required for operation of the metal shredding facility
19 equipment.

20 (E) The closure plan required under Section 25095.40.

21 (F) A copy of documents related to any environmental
22 investigation and any cleanup or other remediation measures
23 implemented at the facility within the last five years.

24 (G) The housekeeping plan prepared pursuant to Section
25 25095.13.

26 (2) The owner or operator shall make the documents described
27 in paragraph (1) available at the metal shredding facility to the
28 department, the United States Environmental Protection Agency,
29 or a local governmental agency upon request.

30 (e) The owner or operator of a metal shredding facility shall
31 comply with subdivision (b) of Section 66265.142 of Title 22 of
32 the California Code of Regulations.

33 (f) The owner or operator of a metal shredding facility shall
34 provide notice to the department of an imminent or actual
35 emergency situation, as required by Section 66265.56 of Title 22
36 of the California Code of Regulations.

37 25095.13. The owner or operator of a metal shredding facility
38 shall develop and comply with plans and minimum standards
39 relating to each of the following aspects of the metal processing
40 operation:

1 (a) The control of releases, including, but not limited to:

2 (1) Plans for complying with applicable local air quality
3 management district or air pollution control district regulations
4 and permit requirements, including the requirements of any
5 approved emissions minimization plan or comparable plan required
6 by applicable regulations.

7 (2) A housekeeping plan that is approved by the department
8 and that does all of the following:

9 (A) Details all measures to control dispersal of metal shredder
10 aggregate and its constituents, including light fibrous material, and
11 metal shredder residue and constituents. Those measures shall
12 include, but are not limited to, mechanical and manual sweeping,
13 washing or cleaning of equipment and structures to remove
14 accumulated debris, application of water using water trucks,
15 sprinklers, spray bars, deluge systems or other dust suppression
16 equipment, fencing, and enclosures.

17 (B) Specifies the frequency for each measure detailed pursuant
18 to subparagraph (A).

19 (C) Addresses the disposition of residuals generated from
20 cleaning, including, but not limited to, debris, sweepings, rinse
21 water, and any other material that does not contain recoverable
22 ferrous or nonferrous metal.

23 (D) Requires the completion of written logs of all housekeeping
24 activities. The written logs shall be maintained in accordance with
25 Section 25095.12.

26 (E) Requires the management of any light fibrous material that
27 has been released from the facility to be subject to regulation under
28 Chapter 6.5 (commencing with Section 25100).

29 (3) A metal shredding facility inspection plan that is approved
30 by the department. The metal shredding facility inspection plan
31 shall include all of the following:

32 (A) Inspection of all facilities and equipment that is used to
33 manage metal shredder aggregate.

34 (B) A general inspection schedule that complies, with the
35 specific requirements in Sections 66264.174, 66264.195,
36 66264.254, 66265.403, and 66264.1101 of Title 22 of the California
37 Code of Regulations.

38 (C) All areas where the deposition of metal shredder aggregate,
39 including light fibrous material may occur, including accessible

1 areas within 500 feet of the metal shredding facility's property
2 boundary or further as determined by the department.

3 (4) An inventory management plan, that is approved by the
4 department, to prevent accumulation of metal shredder aggregate
5 and treated or untreated metal shredder residue in excess of the
6 limitations set forth in subparagraph (G) of paragraph (2) of
7 subdivision (b) of Section 25095.10.

8 (5) Standards for the installation and maintenance of paving
9 with concrete surfacing, steel plate, or other surface that is designed
10 to prevent infiltration and to collect and route water that drains to
11 a process water management system. The paving shall be inspected
12 quarterly and repaired as needed. The results of the paving
13 inspections and any paving repairs shall be submitted to the
14 department with the annual report and as requested by the
15 department.

16 (b) (1) A separate written plan for the prevention, detection,
17 and suppression of fires. The plan shall comply with all of the
18 following:

19 (A) Be shared with local emergency responders.

20 (B) Be used to monitor metal shredding facility operations for
21 evidence of incipient fire.

22 (C) Establish procedures for responding to fires of different
23 duration and severity.

24 (D) Be activated in response to any incident at the metal
25 shredding facility that falls within the scope of the plan.

26 (2) The plan shall include all of the following:

27 (A) Maintenance of appropriate response to incipient fires and
28 access to adequate water, firefighting foam, and other supplies at
29 the metal shredding facility that can be used in responding to an
30 incipient or larger fire.

31 (B) Training of metal shredding facility personnel in the proper
32 use of fire-response equipment and procedures and notification
33 requirements.

34 (C) Coordination with local fire departments and other first
35 responders as necessary to support maximum effectiveness in
36 responding to an emergency at the metal shredding facility.

37 (D) The monitoring of temperatures on all feedstock, metal
38 shredder aggregate piles, and equipment relating to metal
39 processing operations using an infrared camera or other equivalent.

1 (E) Inventory management provisions necessary to prevent the
2 accumulation of feedstock or metal shredder aggregate at the
3 facility in quantities that exceed the reasonable holding capacity
4 of the facility and that cannot be processed within normal operating
5 cycles.

6 (3) The department may require a metal shredding facility to
7 update its fire suppression plan on an annual basis based on
8 changes in technology or fire prevention practices, or the facility's
9 compliance history and history of fire, explosion, or release of
10 hazardous waste or hazardous waste constituents. Actions taken
11 by the department pursuant to this paragraph are exempt from
12 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
13 3 of Title 2 of the Government Code.

14 (c) Stormwater management and control, including, but not
15 limited to:

16 (1) Containment of stormwater in sumps, tanks, and associated
17 piping or other engineered retention units to minimize ponding at
18 the metal shredding facility.

19 (2) A stormwater testing plan to identify if stormwater exhibits
20 any characteristic of toxicity as described in Section 66261.24 of
21 Title 22 of the California Code of Regulations.

22 (3) Compliance with the metal shredding facility's stormwater
23 pollution prevention plan and spill prevention, control, and
24 countermeasures plan.

25 (4) Discharge of stormwater in accordance with the general
26 permit for discharges of stormwater associated with industrial
27 activities or waste discharge requirements issued by a regional
28 water quality control board, including sampling requirements.

29 25095.14. (a) Subject to subdivision (b), the owner or operator
30 of a metal shredding facility may make the following physical or
31 operational changes to the metal shredding facility without seeking
32 prior approval from the department:

33 (1) Throughput increases and increases in operating rate.

34 (2) Increases in efficiency of metal processing operations,
35 including, without limitation, sizing, separation, sorting, removal,
36 and recovery.

37 (3) Changes in design of processing equipment and conveyance
38 systems.

39 (4) Changes in operations and methods of operation.

1 (5) Installation and modification of processing and other
2 equipment and conveyance systems.

3 (6) Repair and replacement of processing and other equipment
4 and conveyance systems.

5 (7) Decommissioning and removal of equipment and conveyance
6 systems that are no longer in use.

7 (8) Construction of new structures and enclosures and changes
8 to structures and enclosures.

9 (9) Installation and modification of abatement equipment and
10 emission control systems.

11 (10) Installation of and modifications to water reuse and
12 recycling systems.

13 (11) Installation of and repair to paving.

14 (12) Any other changes to the metal shredding facility unrelated
15 to the storage or processing of metal shredder aggregate and metal
16 shredder residue.

17 (b) (1) Except as provided in paragraph (2), the changes
18 described in subdivision (a) may ~~only~~ be made without seeking
19 prior approval from the department if the metal shredding facility
20 maintains compliance with this chapter and the owner or operator
21 shall provide the department with ~~30 days advance~~ written notice
22 of these ~~changes~~. *changes within 30 days of making the changes.*
23 The department may evaluate the information provided in the
24 notice from the facility under this subdivision to assess the potential
25 impact of the proposed modification.

26 (2) The owner or operator of a metal shredding facility that
27 proposes to modify the metal shredding facility in a manner that
28 could result in a significant environmental impact from operations
29 that were not considered by the department in reviewing the
30 information submitted pursuant to this article shall provide the
31 department with 60 days' advance written notice of the
32 modification and shall not implement the modification without
33 approval from the department. The department shall notify the
34 public when it approves modifications pursuant to this subdivision.

35 (3) On or before July 1 of each year, the owner or operator of
36 a metal shredding facility shall submit an annual report to the
37 department describing the material physical or operational changes,
38 if any, made to the metal shredding facility during the previous
39 calendar year relating to the management of metal shredder
40 aggregate or metal shredder residue.

(4) Upon request by the department, the metal shredding facility shall be required to provide additional information about the nature or extent of changes described in the *notice provided pursuant to paragraph (1) or the annual report* as necessary to demonstrate the metal shredding facility's ongoing compliance with applicable regulations.

(5) Physical changes to the metal shredding facility's ongoing operations that are reported to the department in compliance with paragraph (3) may be reviewed and modified by the department as necessary to ensure compliance with the requirements of this chapter.

25095.15. (a) The owner or operator of a metal shredding facility shall manage all metal shredder aggregate during metal processing operations as necessary to achieve the following minimum standards:

(1) All outdoor equipment used for processing metal shredder aggregate shall be enclosed or covered and designed, operated, and maintained to minimize the possibility of the release of light fibrous material into the environment.

(2) All outdoor equipment used for the conveyance of metal shredder aggregate from one location within the metal shredding facility to another location within the metal shredding facility shall be enclosed or covered and designed, operated, and maintained to minimize the possibility of the release of light fibrous material into the environment.

(3) All vehicles used for the outdoor transfer of metal shredder aggregate shall be loaded and unloaded in a manner that minimizes the possibility of the release of metal shredder aggregate, including light fibrous material into the environment.

(b) Metal shredder aggregate shall be stored or accumulated inside a structure that protects the material from exposure to the elements and minimizes the possibility of the release of light fibrous material into the environment. At a minimum, the structure shall meet all of the following requirements:

(1) The structure shall be enclosed with a floor, roof, and walls sufficient to protect the metal shredder aggregate from exposure to the elements and to contain the metal shredder aggregate and any process residues that are managed in the structure.

(2) The roof shall completely cover all areas used for storage or accumulation of metal shredder aggregate.

(3) The floor shall be constructed of concrete surfacing, steel plate, or other surface designed to prevent infiltration and collect and route any water that drains from the metal shredder aggregate to a process water management system. The floor shall be inspected on a quarterly basis and repaired as needed. The results of the inspections and any repairs to the floor shall be submitted to the department with the annual report submitted pursuant to Section 25095.14.

(4) Any free liquids that drain from materials stored inside the enclosure shall be collected and routed to the metal shredding facility's water management system.

(c) Trommel or augers shall be located in a building or otherwise covered or enclosed so as to minimize the possibility of releases.

(d) Subject to written approval by the department, stockpiling of metal shredder aggregate outside the confines of an enclosure required by subdivision (b) may be allowed for limited periods of time if all of the following conditions are met:

(1) The activity is necessary to accommodate unforeseen circumstances or operational disruptions that prevent the material from being stored inside an enclosure. These unforeseen circumstances or operational disruptions shall have been outside the reasonable control of the facility. The facility shall use best efforts to remedy any unforeseen circumstances or operational disruptions that necessitate outdoor stockpiling of metal shredder aggregate.

(2) The operator provides written notice to the department at least 24 hours before the need to store material outside arises.

(3) The operator conducts watering or other dust control measures to minimize the possibility of the release of light fibrous material from the stockpile into the environment.

(4) The outdoor stockpiling activity is conducted for 10 or fewer consecutive operating days.

(5) The outdoor stockpiling activity does not begin until approval is provided by the department. The department may rescind the temporary approval for outdoor stockpiling if the facility is not using best efforts to remedy any unforeseen circumstances or operational disruptions that necessitate outdoor stockpiling.

(e) The requirements of this section shall also apply to the management of untreated and treated metal shredder residue.

1 25095.16. (a) Metal shredder aggregate that is transported to
2 an offsite metal shredding facility or metal recycling facility for
3 purposes of processing shall be tarped or otherwise contained
4 during shipment and transported in a manner that minimizes the
5 possibility of release into the environment.

6 (b) The metal shredder aggregate shall be shipped directly to
7 the offsite metal processing facility and shall not be handled at
8 any interim location or held at any publicly accessible interim
9 location for more than four hours unless required by hours of
10 service or other applicable law or held by a rail transporter for
11 reasons outside the control of the person arranging for transport.

12 (c) Each shipment of metal shredder aggregate by truck or rail
13 shall be identified by a standard bill of lading or other shipping
14 document that complies with applicable United States Department
15 of Transportation requirements and that contains all of the
16 following:

17 (1) The quantity, by weight, of metal shredder aggregate being
18 transported.

19 (2) The name, physical and mailing addresses, and telephone
20 number of the metal shredding facility that produced the metal
21 shredder aggregate.

22 (3) The name, physical and mailing addresses, and telephone
23 number of the metal processing facility that will process the metal
24 shredder aggregate.

25 (4) The date the shipment of metal shredder aggregate leaves
26 the originating metal shredding facility.

27 (5) The date the shipment of metal shredder aggregate is
28 scheduled to arrive at the receiving metal processing facility.

29 (6) The name of the transporter that shipped the metal shredder
30 aggregate from the originating metal shredding facility to the
31 receiving metal processing facility.

32 (d) The originating metal shredding facility shall retain a copy
33 of all shipping documents onsite, in either paper or electronic form,
34 for a period of at least three years. The three-year record retention
35 period may be extended at the direction of the department during
36 the course of any unresolved enforcement action regarding the
37 shipments.

38 (e) Transporters shall obtain and maintain an appropriate amount
39 and type of insurance as approved by the department.

Article 4. Classification of Materials

25095.20. (a) If managed in accordance with this chapter, including any plans approved by the department and any additional conditions imposed by the department pursuant to Sections 25095.10 or 25095.11 the following materials are not waste, as defined in Section 25124, and shall not be subject to regulation under Chapter 6.5 (commencing with Section 25100) of this division or Division 4.5 (commencing with Section 66250) of Title 22 of the California Code of Regulations:

(1) Scrap metal.

(2) Metal shredder aggregate that is managed in either of the following ways:

(A) The metal shredder aggregate is stored and processed at the same metal shredding facility that produced the metal shredder aggregate.

(B) The metal shredder aggregate is transferred to another metal shredding facility or metal recycling facility within federal Standard Industrial Classification Code 5093 for the purpose of processing or further processing the metal shredder aggregate to separate and remove ferrous or nonferrous metals, subject to all of the following:

(i) *Either one of the following:*

(I) The receiving facility is located in the State of California and operates in accordance with the requirements of this chapter.

(II) The receiving facility is located in a state other than the State of California, ~~is owned or operated by the same person that produced the metal shredder aggregate in the State of California,~~ *California* and is operated in accordance with the law of the state where the receiving facility is located. ~~For purposes of this subparagraph, "person" also includes a corporate parent, corporate subsidiary, or a subsidiary of the same corporate parent.~~

(ii) Before transportation offsite, the metal shredder aggregate is managed in accordance with the requirements of the plan approved by the department under subparagraph (L) of paragraph (2) of subdivision (b) of Section 25095.10.

(iii) The receiving facility keeps records of the amount of ferrous and nonferrous metal recovered from the metal shredder aggregate and makes this information available to the department upon request.

1 (iv) The metal shredder aggregate is transported in accordance
2 with the requirements of Section 25095.16.

3 (3) Intermediate metal products that are subject to further
4 processing to improve product quality.

5 (4) Finished ferrous and nonferrous metal commodities that are
6 separated or removed from metal shredder aggregate at a metal
7 shredding facility.

8 (5) Nonmetallic recyclable items recovered from metal shredder
9 aggregate for which a market exists.

10 ~~(b) Any metal shredder aggregate that is transported offsite and~~
11 ~~that does not comply with subparagraph (B) of paragraph (2) of~~
12 ~~subdivision (a) of this section shall be subject to regulation under~~
13 ~~chapter 6.5 and implementing Title 22 of the California Code of~~
14 ~~Regulations.~~

15 ~~(e)~~

16 (b) Notwithstanding subdivision (a), metal shredder aggregate,
17 including light fibrous material, that is either released into the
18 environment during transportation, or released beyond the property
19 boundaries of the metal shredding facility, shall be subject to
20 regulation under Chapter 6.5 (commencing with Section 25100)
21 and ~~implementing Division 4.5 (commencing with Section 66250)~~
22 ~~of Title 22 of the California Code of Regulations.~~

23 25095.21. (a) *Untreated metal shredder residue that meets*
24 *the definition of a non-RCRA hazardous waste as defined in Section*
25 *66261.101 of Title 22 of the California Code of Regulations shall*
26 *be chemically treated in accordance with this section or managed*
27 *in accordance with all applicable requirements of Chapter 6.5*
28 *(commencing with Section 25100) and implementing regulations.*
29 Chemically treated metal shredder residue is not hazardous waste
30 if all of the following conditions are met:

31 (1) Unless an alternative treatment recipe is approved by the
32 department, untreated metal shredder residue shall be treated with
33 at least 0.7 gallons of silicate solution per short ton of the untreated
34 metal shredder residue and cement by weight equal to 8.5 percent
35 of the weight of the untreated metal shredder residue.

36 (2) Metal shredding facilities shall document, on a weekly basis,
37 how many tons of metal shredder residue was treated and how
38 much silicate solution and cement were used in the treatment of
39 the untreated metal shredder residue to comply with paragraph
40 (1).

(3) The chemically treated metal shredder residue does not meet the definition of RCRA hazardous waste, as defined in Section 66261.100 of Title 22 of the California Code of Regulations.

(4) Immediately after waste stabilization, and at all times before offsite transportation and disposal, chemically treated metal shredder residue shall be managed in a manner that prevents releases of chemically treated metal shredder residue outside of a designated accumulation area. The designated accumulation area shall meet the requirements of either of the following:

(A) A self-supporting structure that meets all of the following requirements:

(i) The structure shall be fully or partially enclosed with a floor, at least three walls, and a roof to prevent exposure of the chemically treated metal shredder residue to the elements, including surface transport by precipitation runoff, contamination of soil and groundwater, and wind dispersal outside the enclosure.

(ii) The structure shall be constructed of man-made materials of sufficient strength and thickness to support themselves, the waste contents, any personnel and heavy equipment that operate within the unit, and the stresses of daily operation, such as the movement of personnel, wastes, and handling of equipment within the structure.

(iii) The designated accumulation area shall be labeled or marked clearly with the words “Chemically Treated Metal Shredder Residue” or “CTMSR.” The metal shredding facility shall comply with accumulation time limits as required in Section 66262.17 of Title 22 of the California Code of Regulations.

(B) A containment building that meets the requirements of either of the following:

(i) Article 29 (commencing with Section 66264.1100) of Chapter 14 of Title 22 of the California Code of Regulations.

(ii) Article 29 (commencing with Section 66265.1100) of Chapter 15 of Title 22 of the California Code of Regulations.

(b) Chemically treated metal shredder residue shall not be transported to, and shall not be disposed of at, any location other than one of the following:

(1) A composite-lined portion of a solid waste landfill unit that meets all requirements applicable to disposal of municipal solid waste in California after October 9, 1993, based on State Water Resources Control Board Resolution No. 93-62.

(2) A solid waste landfill or other facility that is regulated by waste discharge requirements issued pursuant to Division 7 (commencing with Section 13000) of the Water Code for discharges of designated waste, as defined in Section 13173 of the Water Code, or that allows for the discharge of chemically treated metal shredder residue. The discharge of chemically treated metal shredder residue includes its use as an alternative daily cover or for other beneficial reuse pursuant to Section 41781.3 of the Public Resources Code and the regulations adopted to implement that section.

(3) Any other landfill or location that is authorized by law to receive chemically treated metal shredder residue for disposal or beneficial use.

(c) The transporter of chemically treated metal shredder residue shall comply with all of the following conditions:

(1) Chemically treated metal shredder residue shall be contained and covered during shipment and transported in a manner that prevents any release into the environment.

(2) The transporter shall comply with all applicable United States Department of Transportation shipping requirements.

(3) The container used to transport chemically treated metal shredder residue shall lack evidence of leakage, spillage, or damage that could cause releases under reasonably foreseeable conditions.

(4) The transporter of chemically treated metal shredder residue shall not transport chemically treated metal shredder residue to a place other than a landfill approved to receive chemically treated metal shredder residue, as described in subdivision (b).

(5) The chemically treated metal shredder residue is not held at any publicly accessible interim location for more than four hours, unless required by other provisions of law, before disposal.

(6) If an unauthorized release of chemically treated metal shredder residue occurs during transportation, the transporter shall immediately contain all releases of chemically treated metal shredder residue and residues from chemically treated metal shredder residue into the environment and determine whether any material resulting from that release is a hazardous waste and, if so, shall manage the hazardous waste in compliance with all applicable requirements of this division. The transporter of chemically treated metal shredder residue is considered the generator of any hazardous waste resulting from the release and

1 is subject to the requirements of Chapter 12 (commencing with
2 Section 66262.10) of Division 4.5 of Title 22 of the California
3 Code of Regulations.

4 (d) Each shipment of chemically treated metal shredder residue
5 shall be accompanied by a shipping document containing all of
6 the following information:

7 (1) The quantity, by weight in short tons, of chemically treated
8 metal shredder residue being transported.

9 (2) The name, physical and mailing addresses, and telephone
10 number of the generating metal shredding facility.

11 (3) The name, physical and mailing addresses, and telephone
12 number of the destination landfill.

13 (4) The date the shipment of chemically treated metal shredder
14 residue leaves the metal shredding facility.

15 (5) The date the shipment of chemically treated metal shredder
16 residue arrives at the destination landfill.

17 (6) The name and telephone number of the transporter who
18 shipped the chemically treated metal shredder residue from the
19 metal shredding facility to the destination landfill.

20 (e) The metal shredding facility shall retain onsite a copy of all
21 documentation produced pursuant to this section for at least three
22 years from the date that the chemically treated metal shredder
23 residue that is the subject of the documentation was generated.
24 The department may request the information identified in
25 subdivision (d) in the form of a summary log or a copy of each
26 individual shipping document. The three-year record retention
27 period is automatically extended during the course of any
28 unresolved enforcement action regarding chemically treated metal
29 shredder residue management activity or as requested by the
30 department.

31 (f) The generating metal shredding facility shall, on or before
32 February 1 of the following year, submit to the department, at the
33 address specified in subdivision (g) of this section, a written annual
34 report containing all of the following information:

35 (1) The name, physical and mailing addresses, and telephone
36 number of the generating metal shredding facility.

37 (2) The name, telephone number, and email address of the
38 contact person at the generating metal shredding facility who
39 should be contacted regarding management, transportation, and
40 disposal of chemically treated metal shredder residue.

1 (3) The name, physical and mailing address, and telephone
2 number for each of the landfills to which the generating metal
3 shredding facility shipped chemically treated metal shredder
4 residue during the previous calendar year.

5 (4) The total cumulative quantity of chemically treated metal
6 shredder residue, by weight in short tons, shipped to all landfills,
7 and the respective quantity of chemically treated metal shredder
8 residue, by weight in short tons, shipped to each landfill, during
9 the previous calendar year.

10 (5) The United States Environmental Protection Agency
11 identification number of the generating metal shredding facility.

12 (g) The metal shredding facility shall provide a copy of any
13 relevant document identified in subdivision (e) upon receipt of a
14 request from the department. Annual reports submitted to the
15 department pursuant to subdivision (f) shall be sent to the following
16 address: Department of Toxic Substances Control, CTMSR
17 Reporting Staff, P.O. Box 806, Sacramento, CA 95812-0806, with
18 the words "Attention: CTMSR Annual Report" prominently
19 displayed on the front of the envelope.

20 *(h) The owner or operator of a metal shredding facility shall*
21 *not be required to treat metal shredder residue and shall be exempt*
22 *from this section if the owner or operator demonstrates to the*
23 *satisfaction of the department, on an annual basis, that the metal*
24 *shredder residue generated at the facility does not exhibit any state*
25 *or federal characteristic of hazardous waste, as prescribed in*
26 *Chapter 11 (commencing with Section 66261.1) of Division 4.5 of*
27 *Title 22 of the California Code of Regulations.*

28
29 Article 5. Reporting
30

31 25095.30. (a) Except as otherwise provided in subdivision (c),
32 within one year after the effective date, the owner or operator of
33 a metal shredding facility shall conduct a preliminary endangerment
34 assessment, as defined in Section 78095, and submit it to the
35 department. The preliminary endangerment assessment shall be
36 conducted in accordance with the most current department guidance
37 manual for evaluating hazardous substance release sites and shall
38 include an evaluation of process areas or locations where releases
39 of materials containing hazardous constituents may have or have

1 occurred, a conceptual site model, and site-specific human health
2 and ecological screening evaluations.

3 (b) The owner or operator of a metal shredding facility shall
4 conduct appropriate corrective action as needed to address releases
5 of hazardous substances that pose a significant threat to human
6 health or the environment. This subdivision does not prohibit the
7 department from issuing a corrective action order under Section
8 25187 subsequent to any investigation of the metal shredding
9 facility.

10 (c) The owner or operator of a metal shredding facility may
11 demonstrate compliance with this section by providing evidence
12 to the department that, within the last five years, the metal
13 shredding facility has completed an assessment of the metal
14 shredding facility pursuant to an order issued by the department,
15 a regional water quality control board, or any other federal, state,
16 or local agency and is implementing, or has implemented, any
17 corrective action requirements imposed by the agency.

18 25095.31. (a) The owner or operator of a metal shredding
19 facility shall provide the department with immediate notice of a
20 fire or other incident at the metal shredding facility that requires
21 the assistance of a local fire department or other first responder.
22 This notice shall be in addition to any notice that is required to be
23 made to the Office of Emergency Services pursuant to Section
24 66265.56 of Title 22 of the California Code of Regulations and
25 any other agency under applicable law.

26 (b) The owner or operator of a metal shredding facility shall
27 establish an effective means of providing public notice to members
28 of the surrounding community upon the occurrence of a fire or
29 other incident that poses a threat to human health or the
30 environment outside of the facility as specified in Section 66265.56
31 of Title 22 of the California Code of Regulations.

32 (c) The department shall evaluate how to apply to metal
33 shredding facilities its policies relating to environmental justice
34 and the protection of vulnerable communities or sensitive receptors
35 and other sensitive locations as described in subdivisions (b) and
36 (c) of Section 25200.21.

37 ~~25095.32. (a) (1) The department shall require metal shredding~~
38 ~~facilities to do both of the following:~~

39 ~~(A) Monitor hazardous waste constituents requested by the~~
40 ~~department.~~

~~(B) Report the results of the monitoring required pursuant to subparagraph (A) to the department. The facilities may also report those results to the local public health department.~~

~~(2) The department shall collect and analyze light fibrous material at the fence lines to determine the potential for release of hazardous waste.~~

~~(b) All metal shredding facilities subject to this section shall implement the facilitywide fence-line hazardous waste constituent monitoring requirements developed pursuant to this section.~~

~~(c) On or before July 1, 2027, the department shall develop a procedure for community notification of the public for the area in which the metal shredding facility is located, if monitoring pursuant to paragraph (1) of subdivision (a) indicates any release of light fibrous material.~~

~~(d) On or before January 1, 2027, the department shall develop regulations to implement, interpret, or make specific this section.~~

~~(e) The department shall oversee and enforce the implementation of subdivision (a) pursuant to Article 8 (commencing with Section 25180).~~

~~(f) Any reasonable regulatory costs incurred by the department in implementing this section may be reimbursed by the fee on metal shredding facilities imposed pursuant to subdivision (a) of Section 25095.50.~~

25095.32. *[RESERVED]*

Article 6. Closure

25095.40. (a) The owner or operator of a metal shredding facility shall have a written closure plan.

(1) The written closure plan shall address all of the following:

(A) The closure and removal of all feedstock, metal shredder aggregate, and treated and untreated metal shredder residue.

(B) The decontamination of equipment and operating areas used for processing metal shredder aggregate.

(C) The treatment of metal shredder residue and management of chemically treated metal shredder residue.

(2) The written closure plan shall include all of the following:

(A) A description of how each authorized unit will be closed. The description shall identify the maximum extent of the operation

1 during the life of the unit, and how all of the following
2 requirements will be met, if applicable:

3 (i) Section 66265.114 of Title 22 of the California Code of
4 Regulations.

5 (ii) Subdivisions (a), (b), and paragraphs (1) and (2) of
6 subdivision (c) of Section 66265.197 of Title 22 of the California
7 Code of Regulations.

8 (iii) Section 66265.404 of Title 22 of the California Code of
9 Regulations.

10 (B) An estimate of the maximum inventory of material in storage
11 and in treatment at any time during the operation of an authorized
12 unit at the metal shredding facility.

13 (C) A description of the steps needed to remove or
14 decontaminate a unit, equipment, or structure during partial and
15 final closure, including, but not limited to, procedures for cleaning
16 equipment and removing contaminated soils, methods for sampling
17 and testing surrounding soils, and criteria for determining the extent
18 of decontamination required.

19 (D) An estimate of the expected year of closure and a schedule
20 for final closure. The schedule for final closure shall include, at
21 minimum, the total time required to close each authorized unit.

22 (3) The written closure plan shall be subject to approval by the
23 department.

24 (4) An amendment to the written closure plan shall be done in
25 compliance with subdivision (c) of Section 66265.112 of Title 22
26 of the California Code of Regulations.

27 (b) The metal shredder facility shall maintain compliance with
28 both of the following requirements regarding closure:

29 (1) Subdivisions (a) and (b) of Section 66265.111 of Title 22
30 of the California Code of Regulations, in the same manner as those
31 provisions apply to metal shredding facilities.

32 (2) Section 66265.114 of Title 22 of the California Code of
33 Regulations.

34 (c) Within 90 days after processing the final volume of metal
35 shredder aggregate, the owner or operator shall commence closure
36 of the metal shredding facility in accordance with the written
37 closure plan.

38 (d) The owner or operator shall complete closure activities in
39 accordance with the written closure plan within 180 days after
40 processing the final volume of metal shredder aggregate unless

1 the owner or operator demonstrates to the department any of the
2 following:

3 (1) The activities required to complete the closure will require
4 longer than 180 days to complete.

5 (2) An authorized unit has the capacity to process additional
6 metal shredder aggregate.

7 (3) There is a reasonable likelihood that a person other than the
8 owner or operator will recommence operation of a unit, closure of
9 the unit would be incompatible with the operation of the metal
10 shredding facility, and the owner or operator has taken and will
11 continue to take all steps necessary to prevent threats to human
12 health and the environment.

13 (e) The owner or operator shall notify the department and any
14 other agencies having jurisdiction over the closure project at least
15 15 days before completion of closure.

16 (f) The owner or operator shall remain in compliance with all
17 applicable requirements of this chapter until the owner or operator
18 submits to the department or authorized agency a certification
19 signed by the owner or operator and by an independent,
20 professional engineer registered in California that closure has been
21 completed in accordance with the written closure plan and that the
22 written closure plan meets or exceeds the applicable requirements
23 of this chapter.

24 25095.41. (a) The owner or operator shall provide a closure
25 cost estimate to the department in accordance with Section
26 66265.142 of Title 22 of the California Code of Regulations and
27 based on all of the following factors:

28 (1) The cost of transporting any unprocessed metal shredder
29 aggregate and metal shredder residue to another metal shredding
30 facility for processing or disposal.

31 (2) The cost of decontaminating all areas and equipment used
32 for storage and processing of metal shredder aggregate.

33 (3) The cost of decontaminating all areas and equipment used
34 for treatment and storage of treated or untreated metal shredder
35 residue.

36 (4) The cost for all closure sampling and analysis confirming
37 decontamination sufficiently meets closure performance standards.

38 (5) The cost of disposition of the maximum amount of metal
39 shredder aggregate and metal shredder residue that may be present
40 at the metal shredding facility at the time of closure.

1 (6) The cost of closure certification.

2 (b) For the purpose of calculating the closure cost estimate, the
3 owner or operator may apply the fair market value of any remaining
4 feedstock and metal shredder aggregate against the estimated cost
5 of closure. In addition, the owner or operator may take into
6 consideration metal shredding facility structures, equipment, and
7 other assets that may continue to be used, sold to third parties, or
8 salvaged for scrap value. The closure cost estimate shall also be
9 determined based on the site-specific aspects of the metal shredding
10 facility, including, without limitation, those site-specific aspects
11 specified in Section 25095.40.

12 (c) The owner or operator shall provide a financial assurance
13 mechanism for closure of the metal shredding facility using one
14 or more of the financial mechanisms described in Section
15 66265.143 of Title 22 of the California Code of Regulations.

16 (d) The owner or operator shall provide a financial assurance
17 mechanism for bodily injury and property damage to third parties
18 caused by sudden accidental occurrences arising from operations
19 of the metal shredding facility. The owner or operator shall have
20 and maintain liability coverage for sudden accidental occurrences
21 in the amount of at least one million dollars (\$1,000,000) per
22 occurrence with an annual aggregate of at least two million dollars
23 (\$2,000,000), exclusive of legal defense costs. The owner or
24 operator may satisfy the requirements of this subdivision through
25 a financial mechanism identified in Section 66265.147 of Title 22
26 of the California Code of Regulations.

27 Article 7. Fees

28
29
30 25095.50. (a) The department shall collect an annual fee on
31 all metal shredding facilities that are subject to the requirements
32 of this chapter. The department shall establish and adopt regulations
33 necessary to administer this fee and to establish a fee schedule that
34 is set at a rate sufficient to reimburse the department's reasonable
35 costs to implement this chapter as applicable to metal shredding
36 facilities. The fee schedule established by the department may be
37 adjusted annually by the Board of Environmental Safety as
38 necessary and shall provide for the assessment of no more than
39 the reasonable and necessary costs of the department to implement
40 this chapter, as applicable to metal shredding facilities. In

1 establishing the amount of a fee that may be imposed on a metal
2 shredding facility pursuant to this section, the department shall
3 consider all of the following factors as they relate to the
4 department's reasonable oversight costs:

5 (1) The facility-specific permit ~~conditions~~ *conditions, if any,*
6 developed pursuant to paragraph ~~(1)~~ (4) of subdivision ~~(a)~~ (b) of
7 Section 25095.10.

8 (2) The size of the facility.

9 (3) *The volume of scrap metal that is processed on an annual*
10 *basis.*

11 (4) *The types of scrap metal that are processed at the facility.*

12 ~~(3)~~

13 (5) ~~The type and amount~~ *nature* of metal processing operations
14 occurring at the facility.

15 (6) *Whether the facility conducts chemical stabilization of metal*
16 *shredder residue.*

17 ~~(4)~~

18 (7) Any compliance costs borne by the facility pursuant to state
19 and federal environmental quality regulations.

20 (b) The Controller shall establish a separate subaccount in the
21 Hazardous Waste Control Account. The fees collected pursuant
22 to this section shall be deposited into the subaccount and be
23 available for expenditure by the department, upon appropriation
24 by the Legislature, solely for purposes of implementation and
25 administration of this chapter.

26 (c) A regulation adopted pursuant to this section may be adopted
27 as an emergency regulation in accordance with Chapter 3.5
28 (commencing with Section 11340) of Part 1 of Division 3 of Title
29 2 of the Government Code, and, for purposes of that chapter,
30 including Section 11349.6 of the Government Code, the adoption
31 of these regulations is an emergency and shall be considered by
32 the Office of Administrative Law as necessary for the immediate
33 preservation of the public peace, health, safety, and general welfare.
34 Notwithstanding Chapter 3.5 (commencing with Section 11340)
35 of Part 1 of Division 3 of Title 2 of the Government Code, an
36 emergency regulation adopted by the department pursuant to this
37 section shall be filed with, but not be repealed by, the Office of
38 Administrative Law and shall remain in effect for a period of two
39 years or until revised by the department, whichever occurs sooner.

(d) (1) A metal shredding facility paying an annual fee in accordance with this section shall be exempt from any of the following fees set forth in Chapter 6.5 (commencing with Section 25100), with respect to the production and processing of metal shredder aggregate and the generation, handling, treatment, transportation, and disposal of untreated or treated metal shredder residue:

(A) A fee imposed pursuant to Section 25205.7.

(B) A facility fee imposed pursuant to Section 25205.2.

(C) A fee imposed pursuant to Section 25205.5.

(2) A metal shredding facility is not exempt from the fees listed in paragraph (1) for any hazardous waste generated and handled by the metal shredding facility that are ancillary to metal processing operations at the metal shredding facility.

Article 8. Enforcement

25095.60. The authority granted to the department in Article 8 (commencing with Section 25180) of Chapter 6.5 and its implementing regulations may be used to enforce this chapter, including, but not limited to, the authority to suspend the authorization of any metal shredding facility that has been determined to pose an imminent and substantial endangerment to human health or the environment.

25095.61. (a) (1) The department may deny, revoke, or suspend a permit authorizing the operation of a metal shredding facility under this chapter. A denial, revocation, or suspension shall be based on at least one of the following:

(A) Noncompliance with a condition of the applicable permit that results in a significant threat to human health or the environment.

(B) An owner or operator's failure in the application or during the approval process to disclose fully all relevant facts or a misrepresentation of any relevant fact at any time.

(C) A determination, supported by substantial evidence, that the permitted activity poses a significant danger to human health or the environment that can only be addressed by permit denial, modification, suspension, or revocation. In such situations, the department shall either deny, modify, suspend, or revoke a permit. Any modifications made by the department shall be consistent

1 with and necessary to ensure compliance with the requirements of
2 this chapter.

3 (D) Any cause specified in Section 25186.

4 (2) The department shall provide notice of any adverse action
5 it proposes to be taken to the owner or operator of the metal
6 shredding facility by certified mail with return receipt requested
7 or by personal service.

8 (3) An owner or operator who wishes to appeal that adverse
9 action shall appeal by submitting a letter to the department, within
10 10 days of receipt of notice of the adverse action, and requesting
11 a hearing.

12 (4) Except as provided in paragraph (5), proceedings to appeal
13 any decision made by the department under this chapter, including
14 without limitation required modifications to any plan or other
15 information submitted pursuant to Section 25095.10 and the
16 imposition of site-specific conditions or other operating
17 requirements applicable to a metal shredding facility, shall be
18 conducted in accordance with Chapter 5 (commencing with Section
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
20 Before initiating an appeal, the owner or operator of a facility shall
21 meet and confer with the department in a good faith effort to
22 resolve the dispute.

23 (5) Proceedings to appeal the department's decision concerning
24 the denial, revocation or suspension of a permit to operate a metal
25 shredding facility pursuant to this chapter shall be conducted in
26 accordance with Chapter 5 (commencing with Section 11500) of
27 Part 1 of Division 3 of Title 2 of the Government Code.

28 (b) An authorization to operate pursuant to this chapter is
29 contingent upon the accuracy of information contained in the
30 notifications and other documents required to be maintained.

31 (c) Nothing in this chapter, and no action taken by the
32 department pursuant to this chapter, shall be construed as a
33 limitation on the right of any person to maintain any civil action
34 otherwise authorized by law.

35 SEC. 2. Section 25117 of the Health and Safety Code is
36 amended to read:

37 25117. (a) Except as provided in subdivision (d), "hazardous
38 waste" means a waste that meets any of the criteria for the
39 identification of a hazardous waste adopted by the department
40 pursuant to Section 25141.

1 (b) “Hazardous waste” includes, but is not limited to, RCRA
2 hazardous waste.

3 (c) Unless expressly provided otherwise, “hazardous waste”
4 also includes extremely hazardous waste and acutely hazardous
5 waste.

6 (d) “Hazardous waste” does not include a material that is not
7 waste pursuant to Section 25095.20 or hazardous waste pursuant
8 to Section 25095.21.

9 (e) Notwithstanding subdivision (a), in any criminal or civil
10 prosecution brought by a city attorney, county counsel, district
11 attorney, or the Attorney General for violation of this chapter,
12 when it is an element of proof that the person knew or reasonably
13 should have known of the violation, or violated the chapter
14 willfully or with reckless disregard for the risk, or acted
15 intentionally or negligently, the element of proof that the waste is
16 hazardous waste may be satisfied by demonstrating that the waste
17 exhibited the characteristics set forth in subdivision (b) of Section
18 25141.

19 SEC. 3. Section 25150.82 of the Health and Safety Code is
20 repealed.

21 SEC. 4. Section 25150.84 of the Health and Safety Code is
22 repealed.

23 SEC. 5. Section 25150.86 of the Health and Safety Code is
24 repealed.

25 SEC. 6. The Legislature finds and declares that metal shredding
26 facilities are essential to a thriving circular economy in the State
27 of California and the regulation of those facilities is a matter of
28 statewide concern and is not a municipal affair as that term is used
29 in Section 5 of Article XI of the California Constitution. Therefore,
30 Section 1 of this act adding Chapter 6.4 (commencing with Section
31 25095) to Division 20 of the Health and Safety Code applies to all
32 cities, including charter cities.

33 SEC. 7. The Legislature finds and declares that Section 1 of
34 this act, which adds Chapter 6.4 (commencing with Section 25095)
35 to Division 20 of the Health and Safety Code, imposes a limitation
36 on the public’s right of access to the meetings of public bodies or
37 the writings of public officials and agencies within the meaning
38 of Section 3 of Article I of the California Constitution. Pursuant
39 to that constitutional provision, the Legislature makes the following

1 findings to demonstrate the interest protected by this limitation
2 and the need for protecting that interest:

3 In order to protect proprietary business information from public
4 disclosure, it is necessary for that information to remain
5 confidential.

6 SEC. 8. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.