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AMENDED IN SENATE MAY 23, 2025

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 404

Introduced by Senator Caballero

(Coauthors: Senators Arreguín, Grayson, and Pérez)

(Coauthors: Assembly Members Alvarez, Gipson, and Mark González)

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. The bill would establish a comprehensive scheme for the regulation of metal shredding 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, as provided. *The bill would require the department to take final action on a permit application by an existing facility within 3 years, 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 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 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 also require the owner or operator of a metal shredding facility to provide written notice to the department at least 60 days before transferring ownership or operation of the facility.* The bill would authorize the DTSC to enforce these provisions by revoking permits and by other specified means. The bill would authorize the DTSC to adopt regulations for the operation of metal shredding facilities as necessary to implement the requirements of the bill. 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, except as otherwise required pursuant to existing law.

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 emergency procedures, as specified. *The bill would require a person who applies for a metal shredding facility permit to enter into a written agreement with the department pursuant to which that person would be required to reimburse the department for the direct costs reasonably incurred by the department in processing the application, as provided.* The bill would require the Controller to establish a new and separate Metal Shredders Facility Account and would require all fees collected to be placed into that account and made available for expenditure by the DTSC solely for the purpose of implementation and administration of these provisions, 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.

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:

3
4 CHAPTER 6.4. METAL SHREDDING FACILITIES

5
6 Article 1. Findings and Declarations

7
8 25095. (a) The Legislature finds and declares all of the
9 following:

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

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

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

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

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

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

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

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

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

5 (2) ~~Is protective of~~ *Protects public health and the environment*
6 *and* all communities, including those that have been designated
7 as disadvantaged or vulnerable pursuant to state law.

8 (3) Does not cause disproportionate and potentially
9 discriminatory impacts on local communities, consistent with Title
10 VI of the federal Civil Rights Act of 1964 (Public Law 88-352)
11 and Section 11135 of the Government Code.
12

13 Article 2. Definitions and General Provisions

14
15 25095.1. For purposes of this chapter, the following definitions
16 apply:

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

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

28 (c) “Corrective action” means all actions necessary to mitigate
29 any public health or environmental threat resulting from a release
30 into the environment of hazardous substances from an operating
31 or closed metal shredding facility and to restore the environmental
32 conditions as necessary to protect human health and the
33 environment.

34 (d) “Department” means the Department of Toxic Substances
35 Control.

36 (e) “Effective date” means the date that this chapter becomes
37 operative.

38 (f) “Existing metal shredding facility” means a metal shredding
39 facility that is conducting metal shredding and metal processing

1 operations as of the date that the act adding this chapter is signed
2 into law by the Governor.

3 (g) “Feedstock” means material received by a metal shredding
4 facility before shredding and processing, including, but not limited
5 to, end-of-life vehicles, household appliances, or other forms of
6 light gauge metal suitable for processing in a metal shredder.

7 “Feedstock” is often referred to as light iron or tin.

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

14 (i) “Metal processing operations” means the stockpiling and
15 handling of metal shredder aggregate, the operations undertaken
16 to separate, sort, and remove ferrous or nonferrous scrap metal
17 from metal shredder aggregate, and the treatment and storage of
18 metal shredder residue. “Metal processing operations” does not
19 include shredding, crushing, baling, shearing, cutting, or other
20 metal recycling operations unrelated to the handling of metal
21 shredder aggregate.

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

25 (k) “Metal shredder aggregate” means the mixture of shredded
26 metallic and nonmetallic materials that is produced by the
27 shredding of metallic feedstock and that is subsequently processed
28 for the purpose of separating, sorting, and removing ferrous metals,
29 nonferrous metals, or other recyclable commodities from
30 nonrecyclable materials. “Metal shredder aggregate” does not
31 include (1) metals that have been removed from metal shredder
32 aggregate, or (2) metal shredder residue. “Metal shredder
33 aggregate” is an in-process material and is not a waste or a
34 hazardous waste.

35 (l) “Metal shredder residue” means waste comprising shredded
36 plastics, rubber, glass, foam, fabric, carpet, wood, dirt, or other
37 debris, that remains after recoverable ferrous and nonferrous metals
38 or other recyclable commodities have been separated and removed
39 from metal shredder aggregate. “Metal shredder residue” does not
40 include chemically treated metal shredder residue.

1 (m) “Metal shredding facility” means the entire site under the
2 control of the owner or operator of a facility that uses a stationary
3 or mobile shredder, such as a hammer mill or other shredding
4 technique, to process end-of-life vehicles, appliances, or other
5 metallic feedstock materials in order to facilitate the separation,
6 sorting, or removal of recoverable ferrous or nonferrous metals
7 from nonrecyclable materials. “Metal shredding facility” does not
8 include a feeder yard or other scrap metal recycling facility that
9 operates a metal crusher, a metal shear, or a metal baler if that
10 facility does not conduct metal shredding operations.

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

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

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

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

19 (1) An individual, trust, firm, joint stock company, business
20 concern, partnership, limited liability company, association, or
21 corporation, including, but not limited to, a governmental
22 corporation.

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

25 (3) An interstate body.

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

28 (r) “Scrap metal” has the same meaning as provided in Section
29 66260.10 of Title 22 of the California Code of Regulations.

30 25095.2. The following facilities are not subject to this chapter:

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

34 (b) Facilities that shred wood or wood products that may contain
35 ancillary metal components, including, but not limited to, screws,
36 bolts, metal ties, and metal strapping.

37 (c) Facilities that shred only automotive tires.

38 (d) A feeder yard or other scrap metal recycling facility that
39 operates a metal crusher, metal shear, or metal baler if that facility
40 does not conduct metal shredding operations.

(e) A metal shredding facility that processes exclusively nonferrous metals that do not contain any nonmetallic materials and whose operations do not produce any metal shredder aggregate or result in the generation of metal shredder residue.

25095.3. Metal shredding facilities that are subject to regulation and comply with this chapter are not hazardous waste facilities, ~~however facilities.~~ *However*, this chapter does not alter or override the authority of the department *or a Unified Program Agency, as defined in Section 25404*, to regulate ancillary hazardous waste generated at a metal shredding facility in accordance with Chapter 6.5 (commencing with Section 25100) and Division 4.5 (commencing with Section 66250) of Title 22 of the California Code of Regulations.

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

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

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

25095.6. This chapter does not limit the authority of a local air pollution control district or air quality management district, as defined in Section 39025, or the authority of a ~~certified unified program agency~~, *Unified Program Agency*, as defined in Section ~~25404~~. *25404, or the authority of a local environmental health department that is not a Unified Program Agency.*

25095.7. The department may adopt regulations as necessary to implement this chapter, and thereafter may update and revise the regulations from time to time, consistent with this chapter. The department shall adopt regulations to implement Section 25095.50, relating to the imposition of fees on metal shredding facilities.

Article 3. Permits and Operations

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

(2) On and after the effective date, an existing metal shredding facility operating in compliance with the requirements of this chapter, including the provisions of a compliance plan approved by the department pursuant to subdivision (a) of Section 25095.11 and *the schedule for* any interim measures or controls issued pursuant to subdivision ~~(g)~~ *(h)* of Section 25095.11, may continue to operate pending final action on a permit application as specified in this section. *Without exception, the facility shall have developed and shall continuously implement a fire prevention, detection, and response plan and comply with the limitations on pile size and duration set forth in subparagraph (E) of paragraph (2) of subdivision (b) of Section 25095.13.* Except as provided in this section, nothing herein shall prevent the department from taking enforcement action pursuant to Article 8 (commencing with Section 25095.60) before issuance of a final permit.

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

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

(B) Before taking final action to issue a permit for a metal shredding facility under this chapter, the department shall determine on the basis of substantial evidence that operation of the facility does not pose a significant threat to public health or the environment and will not cause disproportionate and potentially discriminatory impacts on local communities.

(5) Each permit issued under this chapter shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Any report required to be submitted by a metal shredding facility pursuant to a permit issued under this chapter shall be signed by the owner or operator and shall be certified under penalty of law in the manner specified in Section 66270.11 of Title 22 of the California Code of Regulations.

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

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

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

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

(C) *A plan for the prevention, detection, and response to fires.*

~~(C)~~

(D) A closure plan.

~~(D) A current closure cost estimate.~~

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

~~(F)~~

1 (E) A metal shredding facility housekeeping plan that includes,
2 but is not limited to, daily cleanup of light fibrous material that is
3 susceptible to dispersal beyond the hammer mill.

4 ~~(G)~~

5 (F) An inventory management ~~plan~~. *plan that includes*
6 *procedures that will be implemented to ensure compliance with*
7 *the limitations on pile size and duration set forth in subparagraph*
8 *(E) of paragraph (2) of subdivision (b) of Section 25095.13.*

9 (G) A facility security plan consistent with the requirements of
10 Section 66265.14 of Chapter 15 of Division 4.5 of Title 22 of the
11 California Code of Regulations.

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

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

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

20 (K) Evidence of financial assurance for closure and third-party
21 liability consistent with the requirements of Article 8 (commencing
22 with Section 66265.140) of Chapter 15 of Division 4.5 of Title 22
23 of the California Code of Regulations.

24 (L) A plan describing any offsite or out-of-state transportation
25 and processing of metal shredder aggregate and metal shredder
26 residue, including, but not limited to, the estimated amount of
27 material that is transported, the identity and federal Standard
28 Industrial Classification code of the receiving facility, the estimated
29 amounts of metals that are recovered from the material that is
30 transported offsite, the required insurance, and any other
31 information requested by the department to evaluate whether metal
32 recycling operations are being conducted at the receiving facility.

33 (M) A compliance plan and schedule if required pursuant to
34 subdivision (a) of Section 25095.11.

35 (3) The department shall post all information provided by the
36 owner or operator of a metal shredding facility pursuant to
37 paragraph (2) on the department's internet website in a manner
38 that is readily accessible to the public, consistent with exceptions
39 or exemptions under the California Public Records Act (Division

1 10 (commencing with Section 7920.000) of Title 1 of the
2 Government Code).

3 (4) The department shall review the permit application submitted
4 pursuant to paragraph (2) of subdivision (b) as expeditiously as
5 possible and shall ~~approve, modify, or deny the application. The~~
6 *take final action to approve, modify, or deny the application within*
7 *three years after the application has been determined to be*
8 *complete. For purposes of this subdivision, the department shall*
9 *consider an application to be complete if it includes each of the*
10 *plans and other information specified in subdivision (a). Failure*
11 *of the owner or operator to provide a complete permit application*
12 *within one year shall be grounds for the department to initiate*
13 *denial of the application, subject to the following:*

14 (i) *The three-year period for review of an application may be*
15 *extended as necessary for completion of the California*
16 *Environmental Quality Act (Division 13 (commencing with Section*
17 *21000) of the Public Resources Code) process.*

18 (ii) *If the department does not complete the permit process and*
19 *issue the permit within three years, the department shall provide*
20 *written notice to the public, setting forth an explanation for the*
21 *delay, and shall conduct a public meeting upon request.*

22 (iii) *If the owner or operator of a facility has timely submitted*
23 *a complete application and responded to any additional requests*
24 *for information from the department, the facility may continue to*
25 *operate, subject to all requirements applicable to the facility under*
26 *this chapter, pending final action on its permit application even*
27 *if the department does not complete the permit review process*
28 *within the timeframe specified in this paragraph.*

29 (5) *The owner or operator shall comply with the provisions of*
30 *each plan required under paragraph (2) as approved by the*
31 *department and incorporated into the permit for the facility. The*
32 *department shall impose any additional facility-specific conditions*
33 *that are necessary to ensure compliance with this chapter and for*
34 *the protection of human health and the environment. The*
35 *department shall provide the owner or operator of the metal*
36 *shredding facility with written findings explaining the basis for*
37 *any such conditions.*

38 ~~(5)~~

39 (6) In reviewing any plan submitted pursuant to subparagraph
40 (L) of paragraph (2), the department may request additional

1 information from the owner or operator as necessary to determine
2 the legitimacy of the offsite metal processing operations described
3 in the plan, and may require modifications to the plan, or
4 disapprove the plan, if the department determines that the receiving
5 facility is not engaged in legitimate metal recycling.

6 ~~(6)~~

7 (7) In considering an application for a metal shredding facility
8 permit submitted pursuant to this subdivision, *and the specific*
9 *terms and conditions to be included in the permit*, the department
10 shall consider the site-specific aspects of the metal shredding
11 facility, including, but not limited to:

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

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

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

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

16 (E) The specific metal processing operations conducted at the
17 metal shredding facility, including types of feedstocks and annual
18 throughput.

19 (F) Other relevant site-specific characteristics.

20 (c) (1) The owner or operator of a new metal shredding facility
21 shall submit an application to the department for a permit and shall
22 not commence operations at the new metal shredding facility until
23 the department issues a permit.

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

25 (A) All the information described in paragraph (2) of subdivision
26 (b).

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

29 (d) (1) The approval of an application for an existing or new
30 metal shredding facility shall be considered a discretionary decision
31 subject to the California Environmental Quality Act ((CEQA)
32 Division 13 (commencing with Section 21000) of the Public
33 Resources Code). Nothing in this chapter is intended to modify,
34 restrict, or expand the provisions of CEQA as applied to metal
35 shredding facilities.

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

39 (e) A permit issued pursuant to this section shall authorize the
40 storage and processing of metal shredder aggregate, and the onsite

1 chemical treatment of metal shredder residue conducted at the
2 metal shredding facility, if chemical treatment of residue is
3 included in the permit application. A metal shredding facility that
4 begins chemical treatment of metal shredder residue for the first
5 time after the effective date shall notify the department no later
6 than 30 days before commencement of treatment operations at the
7 facility and shall provide the department with all information
8 required by this chapter relating to the chemical treatment
9 operations within 120 days of commencement of operations. This
10 section does not require a permit for the operation of a hammer
11 mill or other equipment used at a metal shredding facility that does
12 not involve the handling of metal shredder aggregate or chemical
13 treatment of metal shredder residue.

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

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

24 (3) The department shall review the information and either
25 determine the submission is complete or request additional
26 information from the owner or operator. If the application to renew
27 the permit is submitted before the end of the fixed term, the permit
28 shall be deemed extended until the department has taken final
29 action to renew or deny the renewal application and the owner or
30 operator has exhausted all applicable rights of appeal.

31 (4) When prioritizing pending renewal applications for review
32 and in determining the need for any new conditions on a renewed
33 permit, the department shall consider any input received from the
34 public.

35 (g) The department shall consider the compliance history of the
36 metal shredding facility, including the requirements of any permit
37 issued by any other agency in reviewing the facility's application
38 for permit renewal and in considering the need for additional
39 conditions to be included in the permit.

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

3 (2) Before the submission of a permit application or application
4 for permit renewal for a metal shredding facility, the applicant
5 shall hold at least one public meeting, or other community
6 engagement activity approved by the department, to inform the
7 community of metal processing activities and any potential impacts
8 to nearby communities and solicit questions and input from the
9 public. The applicant shall prepare a sign-in sheet for the meeting
10 and allow all attendees an opportunity to provide their names and
11 addresses. The public meeting or community engagement activity
12 shall be noticed to the community at least 30 days in advance and
13 be held in an accessible location at a convenient time.

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

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

26 (B) A summary of public input and questions.

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

29 (4) After the submission of a complete permit application or
30 application for permit renewal for a facility, and before the public
31 meeting described in paragraph (5), the department shall schedule
32 periodic progress meetings to inform the community of the status
33 of the permitting process, including the owner or operator's
34 implementation of any interim measures or controls required by
35 the department pursuant to Section 25095.11. Meetings shall be
36 held pursuant to this paragraph at least once per year and shall be
37 noticed and convened as specified in paragraph (2).

38 (5) Before a decision is made to approve or deny the application,
39 the department shall solicit comment from the community on the
40 completed application materials and hold a public meeting. The

1 public comment period shall be open for a minimum of 45 days.
2 The department shall respond to all public comments within 60
3 days of the close of the public comment period. The public
4 comments and the department's responses to the comments shall
5 be included in the administrative record for the permit proceeding
6 and in the department's notice of its intended decision to approve
7 or deny the permit.

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

12 25095.11. Notwithstanding Section 25095.10, an owner or
13 operator of a metal shredding facility that has submitted a permit
14 application and is unable to comply with all the requirements of
15 this chapter as of the effective date may continue to operate pending
16 the department's review and approval or denial of the permit
17 application, subject to all of the following requirements:

18 (a) The owner or operator identifies in its application each
19 provision of this chapter that the facility is unable to immediately
20 comply with and has developed and implemented a plan and
21 schedule approved by the department for achieving compliance
22 with the provisions of this chapter.

23 (b) ~~The~~ *On or before the effective date, the* owner or operator
24 has developed and implements a written plan for the prevention,
25 detection, and ~~suppression of response to~~ fires that meets the
26 requirements of *paragraphs (1) and (2) of subdivision (b) of*
27 *Section 25095.13. A copy of the fire response plan shall be*
28 *submitted to the department within seven days of the effective date*
29 *and shall be subject to review and approval of the department*
30 *after consultation with the facility and the local fire department*
31 *of the jurisdiction where the facility is located.*

32 (c) *On or before the effective date, the owner or operator*
33 *complies with the limitations on pile size and duration set forth in*
34 *subparagraph (E) of paragraph (2) of subdivision (b) of Section*
35 *25095.13.*

36 (e)

37 (d) The owner or operator initiates, diligently pursues, and
38 implements financial assurance for closure and third-party liability
39 as required pursuant to Section 25095.41, including, but not limited
40 to, both of the following:

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

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

8 ~~(d)~~

9 (e) The owner or operator initiates and diligently pursues to
10 completion a preliminary endangerment assessment, as required
11 pursuant to Section 25095.30, or otherwise meets the requirements
12 in Section 25095.30 and initiates any required actions identified
13 in the preliminary endangerment assessment.

14 ~~(e)~~

15 (f) The owner or operator complies with the standards set forth
16 in Chapter 12 (commencing with Section 66262.10) of Division
17 4.5 of Title 22 of the California Code of Regulations with respect
18 to all ancillary hazardous ~~wastes~~; *wastes generated at the facility*.

19 ~~(f)~~

20 (g) The owner or operator, at a minimum, maintains all existing
21 practices and controls that are in effect or otherwise required by
22 ~~the department~~ *department, a Unified Program Agency, or a local*
23 *environmental health department* on or before the effective date,
24 that are designed to prevent the possibility of any unplanned sudden
25 or nonsudden release of any of the following ~~outside the boundaries~~
26 ~~of the facility~~; *into air, soil, or surface water that could threaten*
27 *human health or the environment*:

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

30 (2) Hazardous ~~waste~~; *waste or hazardous waste constituents*.

31 ~~(3) Hazardous waste constituents.~~

32 ~~(4)~~

33 (3) Metal shredder residue.

34 ~~(5)~~

35 (4) Chemically treated metal shredder residue.

36 ~~(g)~~

37 (h) The owner or operator shall be subject to any interim
38 measures or controls established by the department during
39 consideration of the permit application that are necessary for the
40 protection of human health and the environment. The department

1 shall provide the owner or operator of the metal shredding facility
2 with written findings explaining the basis for those interim
3 ~~requirements~~. *requirements and a reasonable schedule for*
4 *compliance with those measures.*

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

8 (a) The metal shredding facility shall be maintained and operated
9 to minimize the possibility of a fire, explosion, or any unplanned
10 sudden or nonsudden release of in-process materials or components
11 thereof, including metal shredder aggregate and light fibrous
12 material, into air, soil, or surface water that could threaten human
13 health or the environment by implementing all reasonable and
14 feasible operational or engineering methods of control, including,
15 but not limited to, technologies or equipment taking into
16 consideration the size, configuration, and location of the facility,
17 the characteristics of the materials handled, and other relevant
18 factors.

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

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

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

30 (C) Radioactive materials.

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

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

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

1 (G) Military ordnance, except ordnance designated specifically
2 as Material Designated as Safe (MDAS).

3 (H) Explosives, explosive residues, fireworks, and other
4 incendiary materials.

5 (I) Regulated electronic waste.

6 (J) Mercury containing devices.

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

9 (L) Compressed gas cylinders and propane canisters, unless
10 empty and disabled.

11 (2) The inbound source control policy shall contain all of the
12 following:

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

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

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

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

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

37 (c) The owner or operator of the metal shredding facility shall
38 develop and implement procedures for any depollution operations
39 that are conducted at the metal shredding facility involving the
40 removal of automotive fuels, lubricating oils, refrigerants, and

1 materials that require special handling, as defined in Section 42167
2 of the Public Resources Code, including procedures for the proper
3 management of those materials or wastes that are removed during
4 depollution operations, pursuant to Section 25212.

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

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

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

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

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

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

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

26 (G) The housekeeping plan prepared pursuant to Section
27 25095.13.

28 (H) *Records of offsite transportation of metal shredder*
29 *aggregate and CTMSR.*

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

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

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

1 (g) *The owner or operator of a metal shredding facility shall*
2 *provide written notice to the department at least 60 days before*
3 *transferring ownership or operation of the facility.*

4 25095.13. The owner or operator of a metal shredding facility
5 shall develop and comply with plans and minimum standards
6 relating to each of the following aspects of the metal processing
7 operation:

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

9 (1) Plans for complying with applicable local air quality
10 management district or air pollution control district regulations
11 and permit requirements, including the requirements of any
12 approved emissions minimization plan or comparable plan required
13 by applicable regulations.

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

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

24 (B) Specifies the frequency for each measure detailed pursuant
25 to subparagraph (A).

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

30 (D) Requires the completion of written logs of all housekeeping
31 activities. The written logs shall be maintained in accordance with
32 Section 25095.12.

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

36 (3) A metal shredding facility inspection plan that is approved
37 by the department. The metal shredding facility inspection plan
38 shall include all of the following:

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

1 (B) A general inspection schedule that complies, with the
2 specific requirements in Sections 66264.174, 66264.195,
3 66264.254, 66265.403, and 66264.1101 of Title 22 of the California
4 Code of Regulations.

5 (C) All areas where the deposition of metal shredder aggregate,
6 including light fibrous material may occur, including accessible
7 areas within 500 feet of the metal shredding facility's property
8 boundary or further as determined by the department.

9 (4) An inventory management plan, that is approved by the
10 department, to prevent accumulation of *shredder feedstock and*
11 *metal shredder aggregate and treated or untreated metal shredder*
12 *residue in excess of the limitations set forth in subparagraph (G)*
13 *(E) of paragraph (2) of subdivision (b) of Section 25095.10: (b).*

14 (5) Standards for the installation and maintenance of paving
15 ~~with concrete surfacing, concrete, steel plate, or other surface that~~
16 *is surfacing materials approved by the department that are*
17 *designed to prevent infiltration and to collect and route water that*
18 ~~drains to a process a~~ *water management system. The paving shall*
19 *be inspected quarterly and repaired as needed. The results of the*
20 *paving inspections and any paving repairs shall be submitted to*
21 *the department with the annual report and as requested by the*
22 *department.*

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

26 (A) Be shared with local emergency responders.

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

29 (C) Establish procedures for responding to fires of different
30 duration and severity.

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

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

34 (A) ~~Maintenance of appropriate Procedures for~~ *response to*
35 *incipient fires and access to adequate water, firefighting foam, and*
36 *other supplies at the metal shredding facility that can be used in*
37 *responding to an incipient or larger fire.*

38 (B) Training of metal shredding facility personnel in the proper
39 use of fire-response equipment and procedures and notification
40 requirements.

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

4 (D) ~~The monitoring~~ *Monitoring* of temperatures on all feedstock,
5 *feedstock and metal shredder aggregate piles, and equipment*
6 ~~relating to metal processing operations~~ using an infrared camera
7 or other ~~equivalent~~. *equivalent equipment that continuously*
8 *monitors the temperature of feedstock and aggregate piles and*
9 *provides an alarm or other indication of temperature increases*
10 *outside normal range.*

11 (E) Inventory management provisions necessary to prevent the
12 accumulation of feedstock or metal shredder aggregate at the
13 facility in quantities that exceed the reasonable holding capacity
14 of the facility and that cannot be processed within normal operating
15 cycles, including typical periods of breakdown, maintenance, and
16 repair. *The following limits shall apply:*

17 (i) *No individual stockpile of feedstock shall exceed the amount*
18 *of material that can be processed within a 24-hour period.*

19 (ii) *No individual pile of metal shredder aggregate shall exceed*
20 *the amount of material that can be processed within a 48-hour*
21 *period.*

22 (iii) *All feedstock and metal shredder aggregate piles shall be*
23 *subject to continuous 24-hour onsite surveillance, including when*
24 *the facility is not operating, and such other additional controls*
25 *specified in the facility's approved fire response plan.*

26 (3) ~~The department~~ *department, in coordination with the local*
27 *fire department of the jurisdiction where the metal shredding*
28 *facility is located, shall review a metal shredding facility fire*
29 ~~suppression~~ *facility's fire response plan on an annual basis and*
30 *require the owner or operator to update the plan if necessary based*
31 *on changes in technology or fire prevention practices, or the*
32 *facility's compliance history and history of fire, explosion, or*
33 *release of hazardous waste or hazardous waste constituents. Actions*
34 ~~taken by the department pursuant to this paragraph are exempt~~
35 ~~from Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
36 ~~Division 3 of Title 2 of the Government Code.~~

37 (c) Stormwater management and control, including, but not
38 limited to:

1 (1) Containment of stormwater in retention ponds, sumps, tanks,
2 and associated piping or other engineered retention units to
3 minimize free-standing water at the metal shredding facility.

4 (2) A stormwater testing plan to identify if stormwater exhibits
5 any characteristics of toxicity as described in Section 66261.24 of
6 Title 22 of the California Code of Regulations.

7 (3) Compliance with the metal shredding facility's stormwater
8 pollution prevention plan and spill prevention, control, and
9 countermeasures plan.

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

14 25095.14. (a) Subject to subdivision (b), the owner or operator
15 of a metal shredding facility may make the following physical or
16 operational changes to the metal shredding facility without seeking
17 prior approval from the department:

18 (1) Throughput increases and increases in maximum operating
19 rate that are authorized or approved by an air quality management
20 district or air pollution control district.

21 (2) Increases in efficiency of metal processing operations,
22 including, without limitation, sizing, separation, sorting, removal,
23 and recovery.

24 (3) Changes in design of processing equipment and conveyance
25 systems.

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

27 (5) Installation and modification of processing and other
28 equipment and conveyance systems.

29 (6) Repair and replacement of processing and other equipment
30 and conveyance systems.

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

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

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

37 (10) Installation of and modifications to water reuse and
38 recycling systems.

39 (11) Installation of and repair to paving.

1 (12) Any other changes to the metal shredding facility unrelated
2 to the storage or processing of metal shredder aggregate and metal
3 shredder residue.

4 (b) ~~(1)~~ Except as provided in ~~paragraph (2)~~, *subdivision (d)*,
5 the changes described in subdivision (a) may be made without
6 seeking prior approval from the department if the metal shredding
7 facility maintains *substantial* compliance with this chapter and the
8 owner or operator provides the department with written notice of
9 these changes within 30 days of making the changes. The
10 department shall post the notice on the section of its internet
11 website that provides information regarding metal shredding
12 facilities and shall consider any information from the public in
13 evaluating the potential impact of the proposed modification.
14 *facilities.*

15 (c) *The department shall evaluate the information provided in*
16 *the notice from the facility pursuant to this subdivision, as well as*
17 *any objections from the public, to assess whether the modification*
18 *could result in a potentially significant impact on the environment.*
19 *If the department determines that the modification could have a*
20 *potentially significant impact on the environment, the owner or*
21 *operator of the facility shall be required to implement changes to*
22 *the modification as necessary to mitigate the impact to the extent*
23 *feasible.*

24 ~~(2)~~
25 (d) The owner or operator of a metal shredding facility that
26 proposes to modify the metal shredding facility in a manner that
27 could result in a significant environmental impact from operations
28 that were not considered by the department in reviewing the
29 information submitted pursuant to this article shall provide the
30 department with 60 days' advance written notice of the
31 modification and shall not implement the modification without
32 approval from the department. The department shall provide notice
33 of the proposed modification to the public and shall comply with
34 the California Environmental Quality Act (Division 13
35 (commencing with Section 21000) of the Public Resources Code)
36 in its review of the project.

37 ~~(3)~~
38 (e) (1) On or before July 1 of each year, the owner or operator
39 of a metal shredding facility shall submit an annual report to the
40 department describing the material physical or operational changes,

1 if any, made to the metal shredding facility during the previous
2 calendar year relating to the management of metal shredder
3 aggregate or metal shredder residue.

4 ~~(4)~~

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

11 ~~(5)~~

12 (3) Physical changes to the metal shredding facility's ongoing
13 operations that are reported to the department in compliance with
14 ~~paragraph (3)~~ *(1)* may be reviewed and modified by the department
15 as necessary to ensure compliance with the requirements of this
16 chapter.

17 25095.15. (a) The owner or operator of a metal shredding
18 facility shall manage all metal shredder aggregate during metal
19 processing operations as necessary to achieve the following
20 minimum standards:

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

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

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

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

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

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

7 (3) The floor shall be constructed of concrete surfacing, steel
8 plate, or other ~~surface~~ *surfacing material approved by the*
9 *department* designed to prevent infiltration and collect and route
10 any water that drains from the metal shredder aggregate to a process
11 water management system. The floor shall be inspected on a
12 quarterly basis and repaired as needed. The results of the
13 inspections and any repairs to the floor shall be submitted to the
14 department with the annual report submitted pursuant to Section
15 25095.14.

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

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

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

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

33 (2) The operator provides written notice to the department *and*
34 *the local fire department* at least 24 hours before the need to store
35 material outside arises.

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

39 (4) The outdoor stockpiling activity is conducted for 10 or fewer
40 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.

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

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

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

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

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

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

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

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

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

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

7 (e) Transporters shall obtain and maintain an appropriate amount
8 and type of insurance as approved by the department.
9

10 Article 4. Classification of Materials
11

12 25095.20. (a) If managed in accordance with this chapter,
13 including any plans approved by the department and any additional
14 conditions imposed by the department pursuant to Section 25095.10
15 or 25095.11, the following materials are not waste, as defined in
16 Section 25124, and shall not be subject to regulation under Chapter
17 6.5 (commencing with Section 25100) of this division or Division
18 4.5 (commencing with Section 66250) of Title 22 of the California
19 Code of Regulations:

20 (1) Scrap metal.

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

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

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

31 (i) Either one of the following:

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

34 (II) The receiving facility is located in a state other than the
35 State of California and is operated in accordance with the law of
36 the state where the receiving facility is located.

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

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

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

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

9 (4) Finished ferrous and nonferrous metal commodities that are
10 separated or removed from metal shredder aggregate at a metal
11 shredding facility.

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

14 (b) Notwithstanding subdivision (a) and any other provision of
15 this chapter, metal shredder aggregate, including light fibrous
16 material, that is either released into the environment during
17 transportation, or released beyond the property boundaries of the
18 metal shredding facility, shall be subject to regulation as hazardous
19 waste under Chapter 6.5 (commencing with Section 25100) and
20 Division 4.5 (commencing with Section 66250) of Title 22 of the
21 California Code of Regulations, if it exhibits a characteristic of
22 hazardous waste specified in those regulations.

23 25095.21. (a) Untreated metal shredder residue that meets the
24 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).

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

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

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

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

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

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

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

30 (i) Article 29 (commencing with Section 66264.1100) of Chapter
31 14 of Title 22 of the California Code of Regulations.

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

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

37 (1) A composite-lined portion of a solid waste landfill unit that
38 meets all requirements applicable to disposal of municipal solid
39 waste in California after October 9, 1993, based on State Water
40 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.

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

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

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

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

(h) The owner or operator of a metal shredding facility shall not be required to treat metal shredder residue and shall be exempt from this section if the owner or operator determines, as prescribed in Section 66262.11 of Title 22 of the California Code of Regulations, that the metal shredder residue generated at the facility does not exhibit any state or federal characteristics of hazardous waste, as prescribed in Chapter 11 (commencing with Section 66261.1) of Division 4.5 of Title 22 of the California Code of Regulations.

Article 5. Reporting

25095.30. (a) Except as otherwise provided in subdivision (c), within one year after the effective date, the owner or operator of a metal shredding facility shall conduct a preliminary endangerment assessment, as defined in Section 78095, and submit it to the department. The preliminary endangerment assessment shall be conducted in accordance with the most current department guidance manual for evaluating hazardous substance release sites and shall include an evaluation of process areas or locations where releases 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~~ *materials or wastes* that pose a significant
6 threat to human health or the environment. This subdivision does
7 not prohibit the department from issuing a corrective action order
8 under Section 25187 subsequent to any investigation of the metal
9 shredding 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. [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 during the life of the unit, and how all of the following requirements will be met, if applicable:

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

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

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

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

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

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

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

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

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

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

6 (2) Section 66265.114 of Title 22 of the California Code of
7 Regulations.

8 (c) Within 90 days after processing the final volume of metal
9 shredder aggregate, the owner or operator shall commence closure
10 of the metal shredding facility in accordance with the written
11 closure plan.

12 (d) The owner or operator shall complete closure activities in
13 accordance with the written closure plan within 180 days after
14 processing the final volume of metal shredder aggregate unless
15 the owner or operator demonstrates to the department any of the
16 following:

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

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

21 (3) There is a reasonable likelihood that a person other than the
22 owner or operator will recommence operation of a unit, closure of
23 the unit would be incompatible with the operation of the metal
24 shredding facility, and the owner or operator has taken and will
25 continue to take all steps necessary to prevent threats to human
26 health and the environment.

27 (e) The owner or operator shall notify the department and any
28 other agencies having jurisdiction over the closure project at least
29 15 days before completion of closure.

30 (f) The owner or operator shall remain in compliance with all
31 applicable requirements of this chapter until the owner or operator
32 submits to the department or authorized agency a certification
33 signed by the owner or operator and by an independent,
34 professional engineer registered in California that closure has been
35 completed in accordance with the written closure plan and that the
36 written closure plan meets or exceeds the applicable requirements
37 of this chapter.

38 25095.41. (a) The owner or operator shall provide a closure
39 cost estimate to the department in accordance with Section

1 66265.142 of Title 22 of the California Code of Regulations and
2 based on all of the following factors:

3 (1) The cost of transporting any unprocessed metal shredder
4 aggregate and metal shredder residue to another metal shredding
5 facility for processing or disposal.

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

8 (3) The cost of decontaminating all areas and equipment used
9 for treatment and storage of treated or untreated metal shredder
10 residue.

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

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

16 (6) The cost of closure certification.

17 (b) For the purpose of calculating the closure cost estimate, the
18 owner or operator may apply the fair market value of any remaining
19 feedstock and metal shredder aggregate against the estimated cost
20 of closure. In addition, the owner or operator may take into
21 consideration metal shredding facility structures, equipment, and
22 other assets that may continue to be used, sold to third parties, or
23 salvaged for scrap value. The closure cost estimate shall also be
24 determined based on the site-specific aspects of the metal shredding
25 facility, including, without limitation, those site-specific aspects
26 specified in Section 25095.40.

27 (c) The owner or operator shall provide a financial assurance
28 mechanism for closure of the metal shredding facility using one
29 or more of the financial mechanisms described in Section
30 66265.143 of Title 22 of the California Code of Regulations.

31 (d) The owner or operator shall provide a financial assurance
32 mechanism for bodily injury and property damage to third parties
33 caused by sudden accidental occurrences arising from operations
34 of the metal shredding facility. The owner or operator shall have
35 and maintain liability coverage for sudden accidental occurrences
36 in the amount of at least one million dollars (\$1,000,000) per
37 occurrence with an annual aggregate of at least two million dollars
38 (\$2,000,000), exclusive of legal defense costs. The owner or
39 operator may satisfy the requirements of this subdivision through

1 a financial mechanism identified in Section 66265.147 of Title 22
2 of the California Code of Regulations.

3 *(e) If the facility is required to implement postclosure care*
4 *following closure of the facility, the owner or operator shall*
5 *provide a financial assurance mechanism for postclosure using*
6 *one or more of the financial mechanisms described in Section*
7 *66265.145 of Title 22 of the California Code of Regulations.*

8
9 Article 7. Fees

10
11 25095.50. (a) The department shall collect an annual fee on
12 all metal shredding facilities that are subject to the requirements
13 of this chapter. The department shall establish and adopt regulations
14 necessary to administer this fee and to establish a fee schedule that
15 is set at a rate sufficient to reimburse the department's reasonable
16 costs to implement ~~this chapter~~ *all aspects of this chapter, other*
17 *than costs incurred in connection with the department's review*
18 *and issuance of metal shredding facility permits. The fees*
19 *established pursuant to this section shall also be sufficient to*
20 *reimburse the department's reasonable cost to implement Sections*
21 *25150.87 and 41514.6, as applicable to metal shredding facilities.*
22 *facilities, subject to this chapter. The fee schedule established by*
23 *the department may be adjusted annually by the Board of*
24 *Environmental Safety as necessary and shall provide for the*
25 *assessment of no more than the reasonable and necessary costs of*
26 *the department to implement this chapter, as applicable to metal*
27 *shredding facilities. In as described in this section.*

28 *(b) In establishing the amount of a fee that may be imposed on*
29 *a metal shredding facility pursuant to this section, the department*
30 *shall consider all of the following factors as they relate to the*
31 *department's reasonable oversight costs:*

32 (1) The facility-specific permit conditions, if any, developed
33 pursuant to paragraph (4) of subdivision (b) of Section 25095.10.

34 (2) The size of the facility.

35 (3) The volume of scrap metal that is processed on an annual
36 basis.

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

38 (5) The nature of metal processing operations occurring at the
39 facility.

1 (6) Whether the facility conducts chemical stabilization of metal
2 shredder residue.

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

5 ~~(b)~~

6 (c) The Controller shall establish a new and separate account,
7 the Metal Shredders Facility Account. The fees collected pursuant
8 to this section shall be deposited into the Metal Shredders Facility
9 Account and be available for expenditure by the department, upon
10 appropriation by the Legislature, solely for the purpose of
11 implementation and administration of this ~~chapter~~. *chapter and*
12 *Sections 25150.87 and 41514.6.*

13 ~~(e)~~

14 (d) A regulation adopted pursuant to this section may be adopted
15 as an emergency regulation in accordance with Chapter 3.5
16 (commencing with Section 11340) of Part 1 of Division 3 of Title
17 2 of the Government Code, and, for purposes of that chapter,
18 including Section 11349.6 of the Government Code, the adoption
19 of these regulations is an emergency and shall be considered by
20 the Office of Administrative Law as necessary for the immediate
21 preservation of the public peace, health, safety, and general welfare.
22 Notwithstanding Chapter 3.5 (commencing with Section 11340)
23 of Part 1 of Division 3 of Title 2 of the Government Code, an
24 emergency regulation adopted by the department pursuant to this
25 section shall be filed with, but not be repealed by, the Office of
26 Administrative Law and shall remain in effect for a period of two
27 years or until revised by the department, whichever occurs sooner.

28 ~~(d)~~

29 (e) (1) A metal shredding facility paying an annual fee in
30 accordance with this section shall be exempt from any of the
31 following fees set forth in Chapter 6.5 (commencing with Section
32 25100), with respect to the production and processing of metal
33 shredder aggregate and the generation, handling, treatment,
34 transportation, and disposal of untreated or treated metal shredder
35 residue:

36 (A) A fee imposed pursuant to Section 25205.7.

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

38 (C) A fee imposed pursuant to Section 25205.5.

39 (2) A metal shredding facility is not exempt from the fees listed
40 in paragraph (1) for any hazardous waste generated and handled

1 by the metal shredding facility that are ancillary to metal processing
2 operations at the metal shredding facility.

3 25095.51. (a) (1) *A person who applies for a metal shredding*
4 *facility permit under this chapter shall enter into a written*
5 *agreement with the department pursuant to which that person shall*
6 *reimburse the department for the direct costs reasonably incurred*
7 *by the department in processing the application. The fee shall be*
8 *sufficient to cover the department's review of the permit*
9 *application, the conduct of public meetings and notices associated*
10 *with the permit process, and preparation of the permit. The permit*
11 *fee shall be in addition to the annual fee assessed pursuant to*
12 *Section 25095.50 and shall be established on the basis of the same*
13 *factors listed in subdivision (b) of Section 25095.50.*

14 (2) *An agreement required pursuant to paragraph (1) shall*
15 *provide for a 25-percent deposit to be made with the submittal of*
16 *the application. The 25-percent advance payment shall be based*
17 *upon the department's total estimated costs of processing the*
18 *application.*

19 (b) (1) *Pursuant to Section 21089 of the Public Resources Code,*
20 *an applicant for a metal shredding facility permit shall also pay*
21 *all costs incurred by the department for purposes of complying*
22 *with the California Environmental Quality Act (Division 13*
23 *commencing with Section 21000) of the Public Resources Code,*
24 *in conjunction with the application.*

25 (2) *Paragraph (1) does not apply to projects that are exempt*
26 *from CEQA.*

27 (c) *Reimbursements received pursuant to this section shall be*
28 *placed in the Metal Shredders Facility Account established*
29 *pursuant to Section 25095.50 and be available for expenditure by*
30 *the department, upon appropriation by the Legislature.*

31
32 Article 8. Enforcement
33

34 25095.60. (a) *The authority granted to the department in*
35 *Article 8 (commencing with Section 25180) of Chapter 6.5 and*
36 *its implementing regulations may be used to enforce this chapter,*
37 *including, but not limited to, the authority to pursue administrative*
38 *or judicial enforcement for violations of this chapter and any*
39 *implementing regulations, to suspend the authorization of any*
40 *metal shredding facility that has been determined based on*

1 *substantial evidence* to pose an imminent and substantial
2 endangerment to human health or the ~~environment~~. *environment*,
3 *and to deny an application for a permit for any of the reasons set*
4 *forth in paragraph (1) of subdivision (a) of Section 25095.61.*
5 *These enforcement mechanisms shall apply to violations of this*
6 *chapter relating to the management of materials listed in*
7 *subdivision (a) of Section 25095.20.*

8 (b) (1) *The department may order the temporary cessation of*
9 *shredder operations and may prohibit the receipt of additional*
10 *shredder feedstock by the facility, if the owner or operator fails to*
11 *develop and implement a fire response plan as required by*
12 *paragraphs (1) and (2) of subdivision (b) of Section 25095.13. The*
13 *owner or operator may resume shredder operations and receipt*
14 *of feedstock immediately upon providing written confirmation to*
15 *the department that the facility is operating in accordance with a*
16 *fire response plan.*

17 (2) *The department may prohibit the receipt of shredder*
18 *feedstock at a metal shredding facility on a temporary basis if the*
19 *owner or operator exceeds the limitations relating to pile size and*
20 *duration set forth in subparagraph (E) of paragraph (2) of*
21 *subdivision (b) of Section 25095.13. So long as the owner or*
22 *operator of the facility has developed and is implementing a fire*
23 *response plan, the facility may continue to conduct metal shredding*
24 *operations and metal processing operations to reduce the inventory*
25 *of shredder feedstock or metal shredder aggregate, as appropriate,*
26 *and may resume receipt of feedstock at the facility immediately*
27 *upon providing written confirmation to the department compliance*
28 *with the limitations on pile size and duration have been achieved.*

29 25095.61. (a) (1) *The department may deny, revoke, or*
30 *suspend a permit authorizing the operation of a metal shredding*
31 *facility under this chapter. A denial, revocation, or suspension*
32 *shall be based on at least one of the following:*

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

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

39 (C) *A determination, supported by substantial evidence, that*
40 *the permitted activity poses a danger to human health or the*

1 environment that can only be addressed by permit denial,
2 modification, suspension, or revocation. In such situations, the
3 department shall either deny, modify, suspend, or revoke a permit.
4 Any modifications made by the department shall be consistent
5 with and necessary to ensure compliance with the requirements of
6 this chapter.

7 (D) Any cause specified in Section 25186.

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

12 (3) An owner or operator who wishes to appeal that adverse
13 action shall appeal by submitting a letter to the department, within
14 10 days of receipt of notice of the adverse~~action~~, *action* and
15 requesting a hearing.

16 (4) Except as provided in paragraph (5), proceedings to appeal
17 any decision made by the department under this chapter, including
18 without limitation required modifications to any plan or other
19 information submitted pursuant to Section 25095.10 and the
20 imposition of site-specific conditions or other operating
21 requirements applicable to a metal shredding facility, shall be
22 conducted in accordance with Chapter 5 (commencing with Section
23 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
24 Before initiating an appeal, the owner or operator of a facility shall
25 meet and confer with the department in a good faith effort to
26 resolve the dispute.

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

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

35 (c) Nothing in this chapter, and no action taken by the
36 department pursuant to this chapter, shall be construed as a
37 limitation on the right of *a city attorney, county counsel, district*
38 *attorney, or the Attorney General to maintain a civil or criminal*
39 *prosecution or of any person to maintain any civil action otherwise*
40 *authorized by law.*

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

3 25117. (a) Except as provided in subdivision (d), “hazardous
4 waste” means a waste that meets any of the criteria for the
5 identification of a hazardous waste adopted by the department
6 pursuant to Section 25141.

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

9 (c) Unless expressly provided otherwise, “hazardous waste”
10 also includes extremely hazardous waste and acutely hazardous
11 waste.

12 (d) “Hazardous waste” does not include a material that is not
13 waste pursuant to Section 25095.20 or hazardous waste pursuant
14 to Section 25095.21.

15 (e) Notwithstanding subdivision (a), in any criminal or civil
16 prosecution brought by a city attorney, county counsel, district
17 attorney, or the Attorney General for violation of this chapter,
18 when it is an element of proof that the person knew or reasonably
19 should have known of the violation, or violated the chapter
20 willfully or with reckless disregard for the risk, or acted
21 intentionally or negligently, the element of proof that the waste is
22 hazardous waste may be satisfied by demonstrating that the waste
23 exhibited the characteristics set forth in subdivision (b) of Section
24 25141.

25 SEC. 3. Section 25150.82 of the Health and Safety Code is
26 repealed.

27 SEC. 4. Section 25150.84 of the Health and Safety Code is
28 repealed.

29 SEC. 5. Section 25150.86 of the Health and Safety Code is
30 repealed.

31 SEC. 6. The Legislature finds and declares that metal shredding
32 facilities are essential to a thriving circular economy in the State
33 of California and the regulation of those facilities is a matter of
34 statewide concern and is not a municipal affair as that term is used
35 in Section 5 of Article XI of the California Constitution. Therefore,
36 Section 1 of this act adding Chapter 6.4 (commencing with Section
37 25095) to Division 20 of the Health and Safety Code applies to all
38 cities, including charter cities.

39 SEC. 7. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O