

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 or solicit comment from the community on the completed application materials, *meeting*, as provided. The bill would provide that certain materials related to metal shredding are not hazardous waste if they meet specified requirements. The bill would require any report required to be submitted by a metal shredding facility pursuant to a permit issued to be signed by the owner or operator and be certified under penalty of law, including criminal penalties, as specified. Because the bill would expand the scope of a crime, the bill would impose a state-mandated local program. The bill would require an owner or operator of a metal shredding facility to report to the DTSC certain emergency situations, as specified. The bill would require an owner or operator of a metal shredding facility to submit to the DTSC a closure plan and a cost estimate for closing the metal shredding facility, as specified. The bill would authorize the DTSC to enforce these provisions by revoking permits and by other specified means. The bill would ~~require~~ *authorize* the DTSC to adopt regulations for the operation of metal shredding ~~facilities~~ *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 ~~the same~~ emergency procedures, as specified. The bill would require the Controller to establish a *new and* separate ~~subaccount in the Hazardous Waste Control Account~~ *Metal Shredders Facility Account* and would require all fees collected to be placed into that ~~subaccount, to be~~ *account and made* available for expenditure by the DTSC ~~for purposes solely for the purpose~~ of implementation and administration of ~~the provisions of the bill, 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:

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

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

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

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

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

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

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

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

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

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

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

Article 2. Definitions and General Provisions

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

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

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

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

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

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

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

(g) “Feedstock” means material received by a metal shredding facility before shredding and processing, including, but not limited to, end-of-life vehicles, household appliances, or other forms of

1 light gauge metal suitable for processing in a metal shredder.
2 “Feedstock” is often referred to as light iron or tin.

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

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

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

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

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

36 (m) “Metal shredding facility” means the entire site ~~and all~~
37 ~~contiguous properties~~ under the control of the owner or operator
38 of a facility that uses a stationary or mobile shredder, such as a
39 hammer mill or other shredding technique, to process end-of-life
40 vehicles, appliances, or other metallic feedstock materials in order

1 to facilitate the separation, sorting, or removal of recoverable
2 ferrous or nonferrous metals from nonrecyclable materials. “Metal
3 shredding facility” does not include a feeder-~~yard~~, *yard or other*
4 *scrap metal recycling facility that operates* a metal crusher, a metal
5 shear, or a metal baler if that facility does not conduct metal
6 shredding operations.

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

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

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

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

15 (1) An individual, trust, firm, joint stock company, business
16 concern, partnership, limited liability company, association, or
17 corporation, including, but not limited to, a governmental
18 corporation.

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

21 (3) An interstate body.

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

24 (r) “Scrap metal” has the same meaning as provided in Section
25 66260.10 of Title 22 of the California Code of Regulations.

26 25095.2. The following facilities are not subject to this chapter:

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

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

33 (c) Facilities that shred only automotive tires.

34 (d) A feeder-~~yard~~, *yard or other scrap metal recycling facility*
35 *that operates* a metal crusher, metal shear, or metal baler if that
36 facility does not conduct metal shredding operations.

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

1 25095.3. Metal shredding facilities that are subject to regulation
2 and comply with this chapter are not hazardous waste facilities,
3 however this chapter does not alter or override the authority of the
4 department to regulate ancillary hazardous waste generated at a
5 metal shredding facility in accordance with Chapter 6.5
6 (commencing with Section 25100) and Division 4.5 (commencing
7 with Section 66250) of Title 22 of the California Code of
8 Regulations.

9 25095.4. (a) On the operative date of this chapter, the
10 department's Official Policy and Procedure 88-6, titled "Auto
11 Shredder Waste Policy and Procedures" dated November 21, 1988,
12 is hereby repealed.

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

18 25095.5. A citation or reference in this chapter to a requirement
19 of the regulations in Division 4.5 (commencing with Section
20 66260.1) of Title 22 of the California Code of Regulations shall
21 be understood to apply the technical requirements of the regulation
22 to metal shredding operations authorized pursuant to this chapter.
23 All citations or references to those requirements shall be to the
24 provision as it read on the effective date.

25 25095.6. This chapter does not limit the authority of a local
26 air pollution control district or air quality management district, as
27 defined in Section 39025, or the authority of a certified unified
28 program agency, as defined in Section 25404.

29 25095.7. The department may adopt regulations as necessary
30 to implement this chapter, and thereafter may update and revise
31 the regulations from time to time, consistent with this chapter. The
32 department shall adopt regulations to implement Section 25095.50,
33 relating to the imposition of fees on metal shredding facilities.

34 35 Article 3. Permits and Operations 36

37 25095.10. (a) (1) Except as provided in paragraph (2), a metal
38 shredding facility shall not operate in California, unless it has a
39 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 ~~chapter~~, *including the provisions of a compliance plan approved by the department pursuant to subdivision (a) of Section 25095.11 and any interim measures or controls issued pursuant to subdivision (g) of Section 25095.11*, may continue to operate pending final action on a permit application as specified in this section. 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

1 and conditions. Any report required to be submitted by a metal
2 shredding facility pursuant to a permit issued under this chapter
3 shall be signed by the owner or operator and shall be certified
4 under penalty of law in the manner specified in Section 66270.11
5 of Title 22 of the California Code of Regulations.

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

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

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

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

25 (C) A closure plan.

26 (D) A current closure cost estimate.

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

28 (F) A metal shredding facility housekeeping plan that includes,
29 but is not limited to, daily cleanup of light fibrous material that is
30 susceptible to dispersal beyond the ~~hammermill~~ *hammer mill*.

31 (G) An inventory management plan.

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

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

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

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

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

14 (M) *A compliance plan and schedule if required pursuant to*
15 *subdivision (a) of Section 25095.11.*

16 (3) The department shall post all information provided by the
17 owner or operator of ~~an existing~~ a metal shredding facility pursuant
18 to paragraph (2) on the department's internet website in a manner
19 that is readily accessible to the public, consistent with exceptions
20 or exemptions under the California Public Records Act (Division
21 10 (commencing with Section 7920.000) of Title 1 of the
22 Government Code).

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

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

39 (6) In considering an application for a metal shredding facility
40 permit submitted pursuant to this subdivision, the department shall

1 consider the site-specific aspects of the metal shredding facility,
2 including, but not limited to:
3 (A) The nature of the surrounding community and environment.
4 (B) The results of any community-specific assessment.
5 (C) The facility size, location, and configuration.
6 (D) The equipment, enclosures, and infrastructure.
7 (E) The specific metal processing operations conducted at the
8 metal shredding facility, including types of feedstocks and annual
9 throughput.
10 (F) Other relevant site-specific characteristics.
11 (c) (1) The owner or operator of a new metal shredding facility
12 shall submit an application to the department for a permit and shall
13 not commence operations at the new metal shredding facility until
14 the department issues a permit.
15 (2) The application shall consist of both of the following:
16 (A) All the information described in paragraph (2) of subdivision
17 (b).
18 (B) Any other information requested by the department relating
19 to construction or operation of the new metal shredding facility.
20 (d) (1) The approval of an application for an existing or new
21 metal shredding facility shall be considered a discretionary decision
22 subject to the California Environmental Quality Act ((CEQA)
23 Division 13 (commencing with Section 21000) of the Public
24 Resources Code). Nothing in this chapter is intended to modify,
25 restrict, or expand the provisions of CEQA as applied to metal
26 shredding facilities.
27 (2) The department may require an applicant for a metal
28 shredding facility permit to submit additional information in
29 support of an application.
30 (e) A permit issued pursuant to this section shall authorize the
31 storage and processing of metal shredder-~~aggregate~~ *aggregate*,
32 and the onsite chemical treatment of metal shredder residue
33 conducted at the metal shredding-~~facility~~ *facility, if chemical*
34 *treatment of residue is included in the permit application.* A metal
35 shredding facility that begins chemical treatment of metal shredder
36 residue for the first time after the effective date shall notify the
37 department no later than 30 days before commencement of
38 treatment operations at the facility and shall provide the department
39 with all information required by this chapter relating to the
40 chemical treatment operations within 120 days of commencement

1 of operations. This section does not require a permit for the
2 operation of a ~~hammermill~~ *hammer mill* or other equipment used
3 at a metal shredding facility that does not involve the handling of
4 metal shredder aggregate or chemical treatment of metal shredder
5 residue.

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

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

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

23 (4) When prioritizing pending renewal applications for review
24 and in determining the need for any new conditions on a renewed
25 permit, the department shall consider any input received from the
26 public.

27 (g) The department shall consider the compliance history of the
28 metal shredding facility, including the requirements of any permit
29 issued by any other agency in reviewing the facility's application
30 for permit renewal and in considering the need for additional
31 conditions to be included in the permit.

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

34 (2) Before the submission of a permit application or application
35 for permit renewal for a metal shredding facility, the applicant
36 shall hold at least one public meeting, or other community
37 engagement activity approved by the department, to inform the
38 community of metal processing activities and any potential impacts
39 to nearby communities and solicit questions and input from the
40 public. The applicant shall prepare a sign-in sheet for the meeting

1 and allow all attendees an opportunity to provide their names and
2 addresses. The public meeting or community engagement activity
3 shall be noticed to the community at least 30 days in advance and
4 be held in an accessible location at a convenient time.

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

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

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

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

20 (4) After the submission of a complete permit application or
21 application for permit renewal for a facility, and before the public
22 meeting described in paragraph (5), the department shall schedule
23 periodic progress meetings to inform the community of the status
24 of the permitting-~~process~~. *process, including the owner or*
25 *operator's implementation of any interim measures or controls*
26 *required by the department pursuant to Section 25095.11.* Meetings
27 shall be held pursuant to this paragraph at least once per year and
28 shall be noticed and convened as specified in paragraph (2).

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

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

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

12 (a) The owner or operator identifies in its application each
13 provision of this chapter that the facility is unable to immediately
14 ~~comply with~~ *with and has developed and implemented a plan and*
15 *schedule approved by the department for achieving compliance*
16 *with the provisions of this chapter.*

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

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

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

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

31 (d) The owner or operator initiates and diligently pursues to
32 completion a preliminary endangerment assessment, as required
33 pursuant to Section 25095.30, or otherwise meets the requirements
34 in Section 25095.30 and initiates any required actions identified
35 in the preliminary endangerment assessment.

36 (e) The owner or operator complies with the standards set forth
37 in Chapter 12 (commencing with Section 66262.10) of Division
38 4.5 of Title 22 of the California Code of Regulations with respect
39 to all ancillary hazardous wastes.

(f) ~~The owner or operator shall maintain operator, at a minimum, maintains all existing practices and controls that are in effect or otherwise required by the department on or before the effective date, that are designed to prevent the possibility of any unplanned sudden or nonsudden release of any of the following into air, soil, or surface water that could threaten human health or the environment that are in effect or are otherwise required by the department on or before the effective date of this chapter: outside the boundaries of the facility:~~

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

(2) Hazardous waste.

(3) Hazardous waste constituents.

(4) *Metal shredder residue.*

(5) *Chemically treated metal shredder residue.*

(g) *The owner or operator shall be subject to any interim measures or controls established by the department during consideration of the permit application that are necessary for the protection of human health and the environment. The department shall provide the owner or operator of the metal shredding facility with written findings explaining the basis for those interim requirements.*

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

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

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

1 (A) RCRA hazardous waste, as defined in Section 66261.100
2 of Title 22 of the California Code of Regulations, and non-RCRA
3 hazardous waste, as defined in Section 66261.101 of Title 22 of
4 the California Code of Regulations.

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

8 (C) Radioactive materials.

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

13 (E) Polychlorinated biphenyls (PCB) materials and wastes,
14 including, but not limited to, capacitors, electrical transformers,
15 and transformer components.

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

18 (G) Military ordnance, except ordnance designated specifically
19 as Material Designated as Safe (MDAS).

20 (H) Explosives, explosive residues, fireworks, and other
21 incendiary materials.

22 (I) Regulated electronic waste.

23 (J) Mercury containing devices.

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

26 (L) Compressed gas cylinders and propane canisters, unless
27 empty and disabled.

28 (2) The inbound source control policy shall contain all of the
29 following:

30 (A) A written description of the load checking protocol designed
31 to prevent materials or wastes identified in paragraph (1) from
32 being shredded at the facility. Incoming feedstock subject to load
33 checking shall not be shredded until the load-checking process has
34 been completed.

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

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

1 (D) A requirement to maintain all documentation related to the
2 inbound source control policy and load checking the facility for
3 at least five years and provide the documentation to the department
4 upon request.

5 (E) A written description of a process to make a waste
6 determination pursuant to Section 66262.11 of Title 22 of the
7 California Code of Regulations for any of the materials or wastes
8 listed in paragraph (1) that are identified after completion of the
9 load check process and that were unknowingly accepted by the
10 facility. Any waste determined to be a hazardous waste shall be
11 considered generated at the metal shredding facility and shall be
12 managed as a hazardous waste in accordance with Chapter 6.5
13 (commencing with Section 25100).

14 (c) The owner or operator of the metal shredding facility shall
15 develop and implement procedures for any depollution operations
16 that are conducted at the metal shredding facility involving the
17 removal of automotive fuels, lubricating oils, refrigerants, and
18 materials that require special handling, as defined in Section 42167
19 of the Public Resources Code, including procedures for the proper
20 management of those materials or wastes that are removed during
21 depollution operations, pursuant to Section 25212.

22 (d) (1) The owner or operator of the metal shredding facility
23 shall maintain all of the following documents at the metal shredding
24 facility:

25 (A) A written inspection schedule meeting the substantive
26 requirements of subdivision (b) of Section 66265.15 of Title 22
27 of the California Code of Regulations.

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

32 (C) A contingency plan that contains the information specified
33 in Section 66265.52 of Title 22 of the California Code of
34 Regulations.

35 (D) A copy of any local air quality management district or air
36 pollution control district permit and other governmental permits
37 or approvals required for operation of the metal shredding facility
38 equipment.

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

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

4 (G) The housekeeping plan prepared pursuant to Section
5 25095.13.

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

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

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

17 25095.13. The owner or operator of a metal shredding facility
18 shall develop and comply with plans and minimum standards
19 relating to each of the following aspects of the metal processing
20 operation:

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

22 (1) Plans for complying with applicable local air quality
23 management district or air pollution control district regulations
24 and permit requirements, including the requirements of any
25 approved emissions minimization plan or comparable plan required
26 by applicable regulations.

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

29 (A) Details all measures to control dispersal of metal shredder
30 aggregate and its constituents, including light fibrous material, and
31 metal shredder residue and constituents. Those measures shall
32 include, but are not limited to, mechanical and manual sweeping,
33 washing or cleaning of equipment and structures to remove
34 accumulated debris, application of water using water trucks,
35 sprinklers, spray bars, deluge systems or other dust suppression
36 equipment, fencing, and enclosures.

37 (B) Specifies the frequency for each measure detailed pursuant
38 to subparagraph (A).

39 (C) Addresses the disposition of residuals generated from
40 cleaning, including, but not limited to, debris, sweepings, rinse

1 water, and any other material that does not contain recoverable
2 ferrous or nonferrous metal.

3 (D) Requires the completion of written logs of all housekeeping
4 activities. The written logs shall be maintained in accordance with
5 Section 25095.12.

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

9 (3) A metal shredding facility inspection plan that is approved
10 by the department. The metal shredding facility inspection plan
11 shall include all of the following:

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

14 (B) A general inspection schedule that complies, with the
15 specific requirements in Sections 66264.174, 66264.195,
16 66264.254, 66265.403, and 66264.1101 of Title 22 of the California
17 Code of Regulations.

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

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

27 (5) Standards for the installation and maintenance of paving
28 with concrete surfacing, steel plate, or other surface that is designed
29 to prevent infiltration and to collect and route water that drains to
30 a process water management system. The paving shall be inspected
31 quarterly and repaired as needed. The results of the paving
32 inspections and any paving repairs shall be submitted to the
33 department with the annual report and as requested by the
34 department.

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

38 (A) Be shared with local emergency responders.

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

1 (C) Establish procedures for responding to fires of different
2 duration and severity.

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

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

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

10 (B) Training of metal shredding facility personnel in the proper
11 use of fire-response equipment and procedures and notification
12 requirements.

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

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

19 (E) Inventory management provisions necessary to prevent the
20 accumulation of feedstock or metal shredder aggregate at the
21 facility in quantities that exceed the reasonable holding capacity
22 of the facility and that cannot be processed within normal operating
23 ~~eyes:~~ *cycles, including typical periods of breakdown,*
24 *maintenance, and repair.*

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

34 (c) Stormwater management and control, including, but not
35 limited to:

36 (1) Containment of stormwater in *retention ponds*, sumps, tanks,
37 and associated piping or other engineered retention units to
38 minimize ~~ponding~~ *free-standing water* at the metal shredding
39 facility.

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

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

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

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

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

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

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

(4) Changes in operations and methods of operation.

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

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

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

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

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

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

(11) Installation of and repair to paving.

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

(b) (1) Except as provided in paragraph (2), the changes described in subdivision (a) may be made without seeking prior approval from the department if the metal shredding facility maintains compliance with this chapter and the owner or operator ~~shall provide~~ *provides* the department with written notice of these changes within 30 days of making the changes. The department ~~may evaluate the information provided in the notice from the facility under this subdivision to assess~~ *shall post the notice on the section of its internet website that provides information regarding metal shredding facilities and shall consider any information from the public in evaluating* the potential impact of the proposed modification.

(2) The owner or operator of a metal shredding facility that proposes to modify the metal shredding facility in a manner that could result in a significant environmental impact from operations that were not considered by the department in reviewing the information submitted pursuant to this article shall provide the department with 60 days' advance written notice of the modification and shall not implement the modification without approval from the department. The department shall ~~notify the public when it approves modifications pursuant to this subdivision.~~ *provide notice of the proposed modification to the public and shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) in its review of the project.*

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

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

(5) Physical changes to the metal shredding facility's ongoing operations that are reported to the department in compliance with paragraph (3) may be reviewed and modified by the department

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

3 25095.15. (a) The owner or operator of a metal shredding
4 facility shall manage all metal shredder aggregate during metal
5 processing operations as necessary to achieve the following
6 minimum standards:

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

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

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

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

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

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

32 (3) The floor shall be constructed of concrete surfacing, steel
33 plate, or other surface designed to prevent infiltration and collect
34 and route any water that drains from the metal shredder aggregate
35 to a process water management system. The floor shall be inspected
36 on a quarterly basis and repaired as needed. The results of the
37 inspections and any repairs to the floor shall be submitted to the
38 department with the annual report submitted pursuant to Section
39 25095.14.

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

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

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

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

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

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

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

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

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

33 25095.16. (a) Metal shredder aggregate that is transported to
34 an offsite metal shredding facility or metal recycling facility for
35 purposes of processing shall be tarped or otherwise contained
36 during shipment and transported in a manner that minimizes the
37 possibility of release into the environment.

38 (b) The metal shredder aggregate shall be shipped directly to
39 the offsite metal processing facility and shall not be handled at
40 any interim location or held at any publicly accessible interim

1 location for more than four hours unless required by hours of
2 service or other applicable law or held by a rail transporter for
3 reasons outside the control of the person arranging for transport.

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

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

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

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

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

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

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

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

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

32 Article 4. Classification of Materials

33
34
35 25095.20. (a) If managed in accordance with this chapter,
36 including any plans approved by the department and any additional
37 conditions imposed by the department pursuant to ~~Sections~~ *Section*
38 ~~25095.10 or 25095.11~~ *25095.11*, the following materials are not
39 waste, as defined in Section 25124, and shall not be subject to
40 regulation under Chapter 6.5 (commencing with Section 25100)

1 of this division or Division 4.5 (commencing with Section 66250)
2 of Title 22 of the California Code of Regulations:

3 (1) Scrap metal.

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

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

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

14 (i) Either one of the following:

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

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

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

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

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

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

32 (4) Finished ferrous and nonferrous metal commodities that are
33 separated or removed from metal shredder aggregate at a metal
34 shredding facility.

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

37 (b) Notwithstanding subdivision ~~(a)~~, *(a) and any other provision*
38 *of this chapter*, metal shredder aggregate, including light fibrous
39 material, that is either released into the environment during
40 transportation, or released beyond the property boundaries of the

1 metal shredding facility, shall be subject to regulation *as hazardous*
2 *waste* under Chapter 6.5 (commencing with Section 25100) and
3 Division 4.5 (commencing with Section 66250) of Title 22 of the
4 California Code of ~~Regulations~~. *Regulations, if it exhibits a*
5 *characteristic of hazardous waste specified in those regulations.*

6 25095.21. (a) Untreated metal shredder residue that meets the
7 definition of a non-RCRA hazardous waste as defined in Section
8 66261.101 of Title 22 of the California Code of Regulations shall
9 be chemically treated in accordance with this section or managed
10 in accordance with all applicable requirements of Chapter 6.5
11 (commencing with Section 25100) and implementing regulations.
12 Chemically treated metal shredder residue is not hazardous waste
13 if all of the following conditions are met:

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

19 (2) Metal shredding facilities shall document, on a weekly basis,
20 how many tons of metal shredder residue was treated and how
21 much silicate solution and cement were used in the treatment of
22 the untreated metal shredder residue to comply with paragraph
23 (1).

24 (3) The chemically treated metal shredder residue does not meet
25 the definition of RCRA hazardous waste, as defined in Section
26 66261.100 of Title 22 of the California Code of Regulations.

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

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

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

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

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

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

14 (i) Article 29 (commencing with Section 66264.1100) of Chapter
15 14 of Title 22 of the California Code of Regulations.

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

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

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

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

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

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

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

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

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

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

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

16 (6) If an unauthorized release of chemically treated metal
17 shredder residue occurs during transportation, the transporter shall
18 immediately contain all releases of chemically treated metal
19 shredder residue and residues from chemically treated metal
20 shredder residue into the environment and determine whether any
21 material resulting from that release is a hazardous waste and, if
22 so, shall manage the hazardous waste in compliance with all
23 applicable requirements of this division. The transporter of
24 chemically treated metal shredder residue is considered the
25 generator of any hazardous waste resulting from the release and
26 is subject to the requirements of Chapter 12 (commencing with
27 Section 66262.10) of Division 4.5 of Title 22 of the California
28 Code of Regulations.

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

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

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

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

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

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

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

6 (e) The metal shredding facility shall retain onsite a copy of all
7 documentation produced pursuant to this section for at least three
8 years from the date that the chemically treated metal shredder
9 residue that is the subject of the documentation was generated.
10 The department may request the information identified in
11 subdivision (d) in the form of a summary log or a copy of each
12 individual shipping document. The three-year record retention
13 period is automatically extended during the course of any
14 unresolved enforcement action regarding chemically treated metal
15 shredder residue management activity or as requested by the
16 department.

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

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

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

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

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

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

38 (g) The metal shredding facility shall provide a copy of any
39 relevant document identified in subdivision (e) upon receipt of a
40 request from the department. Annual reports submitted to the

1 department pursuant to subdivision (f) shall be sent to the following
2 address: Department of Toxic Substances Control, CTMSR
3 Reporting Staff, P.O. Box 806, Sacramento, CA 95812-0806, with
4 the words “Attention: CTMSR Annual Report” prominently
5 displayed on the front of the envelope.

6 (h) The owner or operator of a metal shredding facility shall
7 not be required to treat metal shredder residue and shall be exempt
8 from this section if the owner or operator ~~demonstrates to the~~
9 ~~satisfaction of the department, on an annual basis, determines, as~~
10 ~~prescribed in Section 66262.11 of Title 22 of the California Code~~
11 ~~of Regulations~~, that the metal shredder residue generated at the
12 facility does not exhibit any state or federal ~~characteristic~~
13 ~~characteristics~~ of hazardous waste, as prescribed in Chapter 11
14 (commencing with Section 66261.1) of Division 4.5 of Title 22
15 of the California Code of Regulations.

16 17 Article 5. Reporting 18

19 25095.30. (a) Except as otherwise provided in subdivision (c),
20 within one year after the effective date, the owner or operator of
21 a metal shredding facility shall conduct a preliminary endangerment
22 assessment, as defined in Section 78095, and submit it to the
23 department. The preliminary endangerment assessment shall be
24 conducted in accordance with the most current department guidance
25 manual for evaluating hazardous substance release sites and shall
26 include an evaluation of process areas or locations where releases
27 of materials containing hazardous constituents may have or have
28 occurred, a conceptual site model, and site-specific human health
29 and ecological screening evaluations.

30 (b) The owner or operator of a metal shredding facility shall
31 conduct appropriate corrective action as needed to address releases
32 of hazardous substances that pose a significant threat to human
33 health or the environment. This subdivision does not prohibit the
34 department from issuing a corrective action order under Section
35 25187 subsequent to any investigation of the metal shredding
36 facility.

37 (c) The owner or operator of a metal shredding facility may
38 demonstrate compliance with this section by providing evidence
39 to the department that, within the last five years, the metal
40 shredding facility has completed an assessment of the metal

1 shredding facility pursuant to an order issued by the department,
2 a regional water quality control board, or any other federal, state,
3 or local agency and is implementing, or has implemented, any
4 corrective action requirements imposed by the agency.

5 25095.31. (a) The owner or operator of a metal shredding
6 facility shall provide the department with immediate notice of a
7 fire or other incident at the metal shredding facility that requires
8 the assistance of a local fire department or other first responder.
9 This notice shall be in addition to any notice that is required to be
10 made to the Office of Emergency Services pursuant to Section
11 66265.56 of Title 22 of the California Code of Regulations and
12 any other agency under applicable law.

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

19 (c) The department shall evaluate how to apply to metal
20 shredding facilities its policies relating to environmental justice
21 and the protection of vulnerable communities or sensitive receptors
22 and other sensitive locations as described in subdivisions (b) and
23 (c) of Section 25200.21.

24 25095.32. [RESERVED]

25
26 Article 6. Closure
27

28 25095.40. (a) The owner or operator of a metal shredding
29 facility shall have a written closure plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) The cost of closure certification.

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

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

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

27 Article 7. Fees

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

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

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

7 (2) The size of the facility.

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

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

11 (5) The nature of metal processing operations occurring at the
12 facility.

13 (6) Whether the facility conducts chemical stabilization of metal
14 shredder residue.

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

17 (b) The Controller shall establish a *new and separate subaccount*
18 ~~in the Hazardous Waste Control account, the Metal Shredders~~
19 *Facility Account*. The fees collected pursuant to this section shall
20 be deposited into the ~~subaccount~~ *Metal Shredders Facility Account*
21 and be available for expenditure by the department, upon
22 appropriation by the Legislature, solely for ~~purposes~~ *the purpose*
23 of implementation and administration of this chapter.

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

38 (d) (1) A metal shredding facility paying an annual fee in
39 accordance with this section shall be exempt from any of the
40 following fees set forth in Chapter 6.5 (commencing with Section

1 25100), with respect to the production and processing of metal
2 shredder aggregate and the generation, handling, treatment,
3 transportation, and disposal of untreated or treated metal shredder
4 residue:

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

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

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

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

12 Article 8. Enforcement

13
14
15 25095.60. The authority granted to the department in Article
16 8 (commencing with Section 25180) of Chapter 6.5 and its
17 implementing regulations may be used to enforce this chapter,
18 including, but not limited to, the authority to suspend the
19 authorization of any metal shredding facility that has been
20 determined to pose an imminent and substantial endangerment to
21 human health or the environment.

22 25095.61. (a) (1) The department may deny, revoke, or
23 suspend a permit authorizing the operation of a metal shredding
24 facility under this chapter. A denial, revocation, or suspension
25 shall be based on at least one of the following:

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

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

32 (C) A determination, supported by substantial evidence, that
33 the permitted activity poses a significant danger to human health
34 or the environment that can only be addressed by permit denial,
35 modification, suspension, or revocation. In such situations, the
36 department shall either deny, modify, suspend, or revoke a permit.
37 Any modifications made by the department shall be consistent
38 with and necessary to ensure compliance with the requirements of
39 this chapter.

40 (D) Any cause specified in Section 25186.

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

5 (3) An owner or operator who wishes to appeal that adverse
6 action shall appeal by submitting a letter to the department, within
7 10 days of receipt of notice of the adverse action, and requesting
8 a hearing.

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

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

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

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

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

34 25117. (a) Except as provided in subdivision (d), "hazardous
35 waste" means a waste that meets any of the criteria for the
36 identification of a hazardous waste adopted by the department
37 pursuant to Section 25141.

38 (b) "Hazardous waste" includes, but is not limited to, RCRA
39 hazardous waste.

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

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

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

17 SEC. 3. Section 25150.82 of the Health and Safety Code is
18 repealed.

19 SEC. 4. Section 25150.84 of the Health and Safety Code is
20 repealed.

21 SEC. 5. Section 25150.86 of the Health and Safety Code is
22 repealed.

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

31 SEC. 7. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

O