

Senate Bill 811

Proposed amendment:

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

(CUPA Comments: Statutory provisions for the establishment of alternative management standards for metal shredder waste were enacted in 2014 (SB 1249, Chapter 756) and amended in 2025 (AB 2851, chapter 743). The Department of Toxic Substances Control was provided with the opportunity to adopt regulations but chose not to. This has led to regulation by way of interpretive letter, which was recently rescinded. The CUPA Forum Board believes that the establishment of alternative management standards for this highly specific waste type is warranted. We disagree with the establishment of these standards outside of the regulatory agency established for this task, and would move to use this legislation to compel DTSC to act upon its historic interaction and interpretive letters to establish alternative management standards via regulation. For this reason, the CUPA Forum Board proposes modification to SB 811 to read as follows:

- Section 1, Articles 1-8 would be stricken since these are legislative attempt to establish alternative management standards. We seek to have DTSC establish these standards via regulation

~~SECTION 1:~~

~~Chapter 6.4 (commencing with Section 25095) is added to Division 20 of the Health and Safety Code, to read:~~

~~CHAPTER 6.4. Metal Shredding Facilities~~

~~Article 1. Findings and Declarations~~

~~25095:~~

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

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

~~(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~~

Commented [MP1]: Section 1, Articles 1-8 would be stricken since these are legislative attempt to establish alternative management standards. We seek to have DTSC establish these standards via regulation

~~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, and to individual facilities based on their size and nature of operations, 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 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) Protects public health and the environment and 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) “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.

(b) “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.

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

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

(e) “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.

(f) “Feeder yard” means a metal recycling facility that collects, sorts, or processes scrap metal, through means other than the use of a hammer mill, from which scrap metal is sold to customers or transferred to a metal shredding facility for further processing and recycling.

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

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

(i) “Metal processing operations” means the stockpiling and handling of metal shredder aggregate, the operations undertaken to separate, sort, and remove ferrous or nonferrous scrap metal from metal shredder aggregate, and the treatment and storage of metal

shredder residue. "Metal processing operations" does not include shredding, crushing, baling, shearing, cutting, or other metal recycling operations unrelated to the handling of metal shredder aggregate.

(j) "Metal products" means all ferrous and nonferrous metals that have been removed from metal shredder aggregate or from metal shredder residue.

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

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

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

(n) "New metal shredding facility" means a metal shredding facility that had not commenced metal shredding and metal processing operations as of the effective date.

(o) "Operator" means the person responsible for the overall operation and management of a metal shredding facility.

(p) "Owner" means a person who owns a metal shredding facility in whole or in part.

(q) "Person" means any of the following:

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

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

~~(3) An interstate body.~~

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

~~(r) "Scrap metal" has the same meaning as provided in Section 66260.10 of Title 22 of the California Code of Regulations.~~

~~(s) "Small metal shredding facility" means a facility that processes no more than 250 tons per day or 65,000 tons per year of metallic feedstock materials using a stationary hammer mill and meets each of the following conditions:~~

~~(1) The facility does not shred whole end-of-life vehicles, whole agricultural equipment, or whole white goods.~~

~~(2) The facility does not conduct on-site chemical treatment of metal shredder residue.~~

~~(3) The facility does not conduct any activity that requires the use of an on-site thermal oxidizer.~~

~~25095.2:~~

~~The following facilities are not subject to this chapter:~~

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

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

~~(c) Facilities that shred only automotive tires.~~

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

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

~~25095.3:~~

~~Metal shredding facilities that are subject to regulation and comply with this chapter are not hazardous waste facilities. However, this chapter does not alter or override the~~

authority of the department or a unified program agency, as defined in Section 25404, to regulate hazardous waste generated at a metal shredding facility in accordance with Chapter 6.5 (commencing with Section 25100) and Division 4.5 (commencing with Section 66250) of Title 22 of the California Code of Regulations:

25095.4:

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

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

25095.5:

~~A citation or reference in this chapter to a requirement of the regulations in Division 4.5 (commencing with Section 66260.1) of Title 22 of the California Code of Regulations or to a specific provision of Chapter 6.5 (commencing with Section 25100) shall be understood to apply the technical requirements of those regulations or standards to metal processing operations authorized pursuant to this chapter. All citations or references to those requirements shall be to the provision as it read on the effective date.~~

25095.6:

~~This chapter does not limit the authority of a local air pollution control district or air quality management district, as defined in Section 39025, or the authority of a unified program agency, as defined in Section 25404, or the authority of a local environmental health department that is not a unified program agency to regulate any activity at a metal shredding facility that falls within the scope of the agency's jurisdiction under existing law.~~

25095.7:

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

25095.8:

~~(a) Except as otherwise expressly defined in this chapter or regulations implementing this chapter, all terms in this chapter that are defined in Article 2 (commencing with Section 25110) of Chapter 6.5 or its implementing regulations shall have the meanings provided in~~

Article 2 (commencing with Section 25110) of Chapter 6.5 and its implementing regulations:

(b) Any reference in this chapter to a requirement of Chapter 6.5 (commencing with Section 25100) or to the regulations in Division 4.5 (commencing with Section 66250) of Title 22 of the California Code of Regulations applies to metal processing operations authorized pursuant to this chapter.

Article 3. Permits and Operations

25095.10:

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

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

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

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

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

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

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

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

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

(B) A metal shredding facility inspection plan, as specified in paragraph (3) of subdivision (a) of Section 25095.13 including, without limitation, inspection of the area surrounding the hammer mill and all downstream metal processing equipment where light fibrous material is likely to accumulate:

(C) A plan for the prevention, detection, and response to fires that includes, at a minimum, provisions for the continuous monitoring of stockpiles of shredder feedstock and metal shredder aggregate for increases in temperature, periodic fire patrols, regular watering of feedstock and aggregate piles, availability of adequate water supplies, water pressure and fire-fighting equipment at the facility, maintenance of fire lanes, and operator training in fire prevention, detection, and response:

(D) A closure plan:

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

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

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

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

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

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

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

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

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

~~(N) A training plan that addresses each of the following areas:~~

~~(i) Prevention of releases of metal shredder aggregate, including light fibrous material, and metal shredder residue.~~

~~(ii) Fire prevention, detection, and suppression.~~

~~(iii) Response to natural disasters, such as earthquakes, wildfires, and floods.~~

~~(iv) Emergency response procedures and notification.~~

(v) Inventory management:

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

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

(A) The three-year period for review of an application may be extended as necessary for completion of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) process:

(B) If the department does not complete the permit process and issue the permit within three years, the department shall provide written notice to the public, setting forth an explanation for the delay, and shall conduct a public meeting upon request:

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

(5) The owner or operator shall comply with the provisions of each plan required under paragraph (2) as approved by the department and incorporated into the permit for the facility. The department shall impose any additional facility-specific conditions that are necessary to ensure compliance with this chapter and 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 any such conditions:

(6) In reviewing any plan submitted pursuant to subparagraph (L) of paragraph (2), the department may request additional information from the owner or operator as necessary to determine the legitimacy of the offsite metal processing operations described in the plan,

and may require modifications to the plan, or disapprove the plan, if the department determines that the receiving facility is not engaged in legitimate metal recycling:

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

(A) The nature of the surrounding community and environment:

(B) The results of any community-specific assessment:

(C) The facility size, location, and configuration:

(D) The equipment, enclosures, and infrastructure:

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

(F) Other relevant site-specific characteristics:

(8) The department shall also conduct at least one site visit to the applicant's facility after receipt of the permit application:

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

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

(A) All the information described in paragraph (2) of subdivision (b):

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

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

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

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

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

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

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

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

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

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

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

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

meeting and allow all attendees an opportunity to provide their names and addresses. The public meeting or community engagement activity shall be noticed to the community at least 30 days in advance, using a form of communication preferred by the community, and be held in an accessible location at a convenient time. The applicant shall invite the department and other regulatory agencies with jurisdiction over the metal shredding facility:

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

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

(B) A summary of public input and questions;

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

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

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

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

~~(i) The department shall post on its internet website general information about each metal shredding facility that has applied for or obtained a permit under this chapter, including without limitation the facility's current permit status, a schedule for issuance of a draft permit and associated public meetings and opportunity for public comment periods, and a summary of the facility's compliance history subsequent to the effective date.~~

~~**25095.11:**~~

~~Notwithstanding Section 25095.10, an owner or operator of a metal shredding facility that has submitted a permit application and is unable to comply with all the requirements of this chapter as of the effective date may continue to operate pending the department's final permit decision, subject to all of the following requirements specified in this section. Failure to meet the requirements of this section shall be subject to enforcement under Article 8 (commencing with Section 25095.60):~~

~~(a) (1) The owner or operator identifies in its application each provision of this chapter that the facility is unable to immediately comply with, including without limitation provisions applicable to management of metal shredder aggregate, light fibrous material, and metal shredder residue, and has developed and implemented a plan and schedule approved by the department for achieving compliance with the provisions of this chapter.~~

~~(2) Plans shall be submitted along with the permit application required in subdivision (b) of Section 25095.10:~~

~~(b) On or before the effective date, the owner or operator complies with the requirements set forth in subdivision (b) of Section 25095.13. A copy of the fire response plan shall be submitted to the department within seven days of the effective date and shall be subject to review and approval of the department after consultation with the facility and the local fire department of the jurisdiction where the facility is located.~~

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

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

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

~~(2) Within 30 days after the permit application is submitted, the owner or operator submits to the department a financial assurance mechanism that is equivalent to the requirements~~

set forth in Sections 66264.143 and 66264.147 of Title 22 of the California Code of Regulations, except that a small metal shredding facility may submit the financial assurance mechanism within 90 days after the permit application is submitted:

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

(f) The owner or operator complies with the standards set forth in Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations with respect to all hazardous wastes generated at the facility:

(g) The owner or operator, at a minimum, maintains all existing practices and controls that are in effect or otherwise required by the department, a unified program agency, or a local environmental health 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:

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

(2) Hazardous waste or hazardous waste constituents:

(3) Metal shredder residue:

(4) Chemically treated metal shredder residue:

(h) The owner or operator complies with the following standards:

(1) Containment areas shall be in good condition; if there is a leak, contents shall be immediately transferred:

(2) Accumulation areas shall be inspected at least weekly:

(3) Containment areas shall be visibly labeled with contents and start date of accumulation. If labeling is infeasible, a record of the start dates of accumulation shall be maintained and made available to the public upon request:

(4) Incompatible materials shall not be kept together:

(5) All emergency equipment shall be regularly tested or maintained according to manufacturer standards:

~~(6) Employees shall have unimpeded access to emergency materials.~~

~~(7) There shall be at least one person on premises or on call at all times.~~

~~(8) Personnel training shall be required for emergency procedures for all possible emergencies and prevention requirements and shall include job specific and general awareness training.~~

~~(i) 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 and a reasonable schedule for compliance with those measures.~~

~~**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) (1) 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, 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:~~

~~(2) The owner or operator shall take precautions to prevent accidental ignition or reaction of material that exhibits the characteristics of ignitability or reactivity. While ignitable or reactive material is being handled, the owner or operator shall confine smoking and open flame to specially designated locations. "No Smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive material.~~

~~(3) The transfer, treatment, storage, or disposal of ignitable or reactive material shall be conducted so that it does not do any of the following:~~

~~(A) Generate extreme heat or pressure, fire or explosion, or violent reaction.~~

~~(B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.~~

~~(C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions:~~

~~(D) Damage the structural integrity of the device or facility containing the material:~~

~~(E) Any other activity similar to those listed in subparagraphs (A) to (D), inclusive, that threatens human health or the environment:~~

~~(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:~~

~~(A) RCRA hazardous waste, as defined in Section 66261.100 of Title 22 of the California Code of Regulations, and non-RCRA hazardous waste, as defined in Section 66261.101 of Title 22 of the California Code of Regulations:~~

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

~~(C) Radioactive materials:~~

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

~~(E) Polychlorinated biphenyls (PCB) materials and wastes, including, but not limited to, capacitors, electrical transformers, and transformer components:~~

~~(F) Fluorescent light ballasts, fluorescent lamps, neon, and high-intensity or mercury vapor lights:~~

~~(G) Military ordnance, except ordnance designated specifically as Material Designated as Safe (MDAS):~~

~~(H) Explosives, explosive residues, fireworks, and other incendiary materials:~~

~~(I) Regulated electronic waste:~~

~~(J) Mercury-containing devices:~~

~~(K) Batteries, including, but not limited to, lead-acid batteries and lithium-ion batteries:~~

~~(L) Compressed gas cylinders and propane canisters, unless empty and disabled:~~

~~(M) Materials requiring special handling, as defined in Section 42167 of the Public Resources Code:~~

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

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

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

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

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

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

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

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

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

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

~~(C) A contingency plan that contains the information specified in Section 66265.52 of Title 22 of the California Code of Regulations;~~

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

~~(E) The closure plan required under Section 25095.40;~~

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

~~(G) The housekeeping plan prepared pursuant to Section 25095.13;~~

~~(H) Records of offsite transportation of metal shredder aggregate and CTMSR;~~

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

~~(e) The owner or operator of a metal shredding facility shall comply with all of the following:~~

~~(1) Subdivision (b) of Section 66265.142 of Title 22 of the California Code of Regulations;~~

~~(2) The contingency plan as required in subparagraph (C) of paragraph (1) of subdivision (d);~~

~~(3) As applicable, Article 3 (commencing with Section 66265.30) of Chapter 15 of Division 4.5 of Title 22 of the California Code of Regulations;~~

~~(4) Article 16 (commencing with Section 66265.370) of Chapter 15 of Division 4.5 of Title 22 of the California Code of Regulations;~~

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

~~(g) The owner or operator of a metal shredding facility shall provide written notice to the department at least 60 days before transferring ownership or operation of the facility;~~

~~(h) The owner or operator shall prevent the unknowing entry, and prevent unauthorized entry, of persons or livestock onto the active portion of the facility;~~

~~(i) For any new construction at a facility located in a 100-year floodplain or within the maximum high tide, the facility shall take all reasonable and feasible precautions to prevent washout of any hazardous materials;~~

(j) For any new construction at a facility, the facility shall take all reasonable and feasible precautions to withstand the maximum credible earthquake:

25095.13:

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

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

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

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

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

(B) Specifies the frequency for each measure detailed pursuant to subparagraph (A):

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

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

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

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

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

(B) A copy of a general inspection schedule that complies, with the specific requirements in Sections 66264.174, 66264.195, 66264.254, 66265.403, and 66264.1101 of Title 22 of the California Code of Regulations, and, as applicable, complies with the specific requirements in subdivision (i) of Section 66264.193, and Sections 66264.195, 66264.226, 66264.273, 66264.303, 66264.602, 66264.1033, 66264.1052, 66264.1053, 66264.1058, 66264.1084, 66264.1085, 66264.1086, 66265.1088, and 66264.1101 of Title 22 of the California Code of Regulations:

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

(4) An inventory management plan, that is approved by the department, to prevent accumulation of shredder feedstock and metal shredder aggregate and treated or untreated metal shredder residue in excess of the limitations set forth in subparagraph (E) of paragraph (2) of subdivision (b):

(5) Standards for the installation and maintenance of paving with concrete, steel plate, or other surfacing materials approved by the department that are designed to prevent infiltration and to collect and route water to a water management system. The paving shall be inspected quarterly and repaired as needed. The results of the paving inspections and any paving repairs shall be submitted to the department with the annual report and as requested by the department:

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

(A) Be shared with local emergency responders.

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

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

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

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

(A) Procedures for response to incipient fires and access to adequate water, water pressure, firefighting foam, and other supplies at the metal shredding facility that can be used in responding to an incipient or larger fire:

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

(C) Coordination with local fire departments, the unified program agency, if other than the fire department, and other first responders as necessary to support maximum effectiveness in responding to an emergency at the metal shredding facility:

(D) Monitoring of temperatures on all feedstock and metal shredder aggregate piles, using an infrared camera or other equivalent equipment that continuously monitors the temperature of feedstock and aggregate piles and provides an alarm or other indication of temperature increases outside normal range:

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

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

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

(iii) No individual pile of feedstock or metal shredder aggregate shall remain inactive for more than 48 hours except during periods when the facility is closed or not operating. Periods of breakdown, maintenance and repair, or under other circumstances specified in the facility's approved inventory management plan, shall not be included in calculating the 48-hour period. A pile shall not be considered inactive if the majority of the material in the pile is removed over a period of 48 hours. In the event of an incident that is required to be reported to the department under Section 25095.31, the department may reduce the number of hours that a pile of feedstock or metal shredder aggregate may remain inactive until the owner or operator demonstrates to the satisfaction of the department and the local fire department that the risk of fire has been mitigated:

(iv) During any period of breakdown and associated repair that exceeds 72 hours, the feedstock and metal shredder aggregate piles shall be subject to additional controls as specified in the facility's approved inventory management plan. Any shredder feedstock accepted by the facility during a period of breakdown, maintenance, or repair exceeding 72 hours shall be managed in accordance with the facility's approved inventory management plan:

~~(v) All feedstock and metal shredder aggregate piles shall be subject to continuous 24-hour onsite surveillance, including when the facility is not operating, and such other additional controls specified in the facility's approved fire response plan. All electronic surveillance data shall be maintained for a period of at least 14 days following any incident that is required to be reported to the department under Section 25095.31.~~

~~(F) Provisions for capture and management of fire suppression water as necessary to prevent discharge into storm drains or runoff into surface water.~~

~~(G) Requirement for at least one person to be present at the facility or on call at all times.~~

~~(3) The department, in coordination with the local fire department of the jurisdiction where the metal shredding facility is located, shall review a facility's fire response plan on an annual basis and require the owner or operator to update the plan if necessary based on changes in technology or fire prevention practices, or the facility's compliance history and history of fire, explosion, or release of hazardous waste or hazardous waste constituents.~~

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

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

~~(2) A stormwater testing plan to identify if stormwater exhibits any 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 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) Except as provided in subdivision (d), the changes described in subdivision (a) may be made without seeking prior approval from the department if the metal shredding facility maintains substantial compliance with this chapter and the owner or operator provides the department with written notice of these changes within 30 days of making the changes. The department shall post the notice on the section of its internet website that provides information regarding metal shredding facilities:

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

(d) 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 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.

(e) (1) 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:

(2) 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 subdivision (b) or the annual report as necessary to demonstrate the metal shredding facility's ongoing compliance with applicable regulations:

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

25095.15:

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

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

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

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

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

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

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

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

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

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

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

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

(2) The operator provides written notice to the department, the unified program agency, and the local fire department at least 24 hours before the need to store material outside arises:

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

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

(5) The outdoor stockpiling activity does not begin until approval is provided by the department. The department may rescind the temporary approval for outdoor stockpiling if

~~the facility is not using best efforts to remedy any unforeseen circumstances or operational disruptions that necessitate outdoor stockpiling.~~

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

25095.16:

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

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

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

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

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

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

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

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

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

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

~~(e) Transporters shall obtain and maintain liability insurance in accordance with Section 34631.5 of the Vehicle Code. A transporter shall cease to transport metal shredder aggregate upon loss of liability coverage.~~

~~(f) The owner or operator of the originating facility shall include in the annual report submitted to the department under Section 25095.14 the total tonnage of metal shredder aggregate that was shipped to another recycling facility for processing during the calendar year, the name of each transporter used for this purpose, the bill of lading numbers, and the total tonnage transported by that transporter during the calendar year, and the name and location of the facilities that processed the material. The department shall handle the information in a manner consistent with exceptions or exemptions under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).~~

Article 4. Classification of Materials

25095.20:

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

~~(1) Scrap metal;~~

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

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

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

~~(i) Either one of the following:~~

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

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

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

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

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

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

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

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

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

25095.21:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

release and is subject to the requirements of Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 5. Reporting

25095.30:

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

(b) The owner or operator of a metal shredding facility shall conduct appropriate corrective action as needed to address releases of hazardous materials or wastes that pose a

significant threat to human health or the environment. This subdivision does not prohibit the department from issuing a corrective action order under Section 25187 subsequent to any investigation of the metal shredding facility:

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

25095.31:

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

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

(c) 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:

25095.32:

{RESERVED}

Article 6. Closure

25095.40:

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

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

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

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

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

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

~~(A) A description of how the equipment and areas used for processing metal shredder aggregate and for treating metal shredder residue will be closed. The description shall identify the maximum extent of the operation during the life of the equipment or area and how all of the following requirements will be met, if applicable:~~

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

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

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

~~(B) An estimate of the maximum inventory of metal shredder aggregate and metal shredder residue in storage and in treatment at any time during the operation of the metal shredding facility:~~

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

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

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

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

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

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

~~(2) Section 66265.114 of Title 22 of the California Code of Regulations:~~

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

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

~~(1) The activities required to complete the closure will require longer than 180 days to complete:~~

~~(2) The facility has the capacity to process additional metal shredder aggregate:~~

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

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

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

~~**25095.41:**~~

~~(a) The owner or operator shall provide a closure cost estimate to the department consistent with Section 66265.142 of Title 22 of the California Code of Regulations and based on all of the following factors:~~

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

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

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

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

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

(6) The cost of closure certification:

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

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

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

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

Article 7. Fees

25095.50:

~~(a) The following definitions shall apply for purposes of this article:~~

~~(1) "Fee rate" means the rate to be set by the department for the 2026–27 fiscal year, as annually adjusted by the Board of Environmental Safety beginning in the 2027–28 fiscal year and thereafter pursuant to subdivision (b):~~

~~(2) "Fee schedule" means the fee structure established in regulations by the department pursuant to subdivision (b) using the criteria in subdivision (c):~~

~~(b) (1) Beginning in the 2027–28 fiscal year, the rates established by the department shall be reviewed and shall be increased or decreased annually by the Board of Environmental Safety as necessary and shall provide for the assessment of no more than the reasonable and necessary costs of the department and the Office of Environmental Health Hazard Assessment to implement this chapter as described in this section:~~

~~(2) The department shall collect an annual fee on all metal shredding facilities that are subject to the requirements of this chapter. The department shall establish and adopt regulations to administer this fee and to establish a fee schedule and rate that is sufficient to cover the department's reasonable costs to implement this chapter and Sections 25150.87 and 41514.6, excluding the costs described in Section 25095.51:~~

~~(3) The fee rate shall include, but not be limited to, the costs of fee administration, the costs of collection of the fee, the department's administrative costs, and statewide general administrative costs related to implementation of this chapter and Sections 25150.87 and 41514.6:~~

~~(4) The fee rate shall allow for a reserve in the fund each year at an amount sufficient to ensure that all programs funded by the subaccount will not be adversely affected by revenue shortfalls or baseline expenditure adjustments and does not exceed 10 percent of the authorized expenditure levels:~~

~~(5) The fees established pursuant to this section shall also be sufficient to cover the Office of Environmental Health Hazard Assessment's reasonable costs to implement Sections 25150.87 and 41514.6:~~

~~(c) In establishing fee schedule that may be imposed on a metal shredding facility pursuant to this section, the department shall consider all of the following factors as they relate to the department's reasonable oversight costs:~~

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

(2) The size of the facility:

(3) The volume of feedstock that is shredded on an annual basis:

(4) The types of feedstock that are shredded at the facility:

(5) The nature of metal processing operations occurring at the facility:

(6) Whether the facility conducts chemical stabilization of metal shredder residue:

(d) The Controller shall establish a new and separate Metal Shredding Facility Subaccount in the Hazardous Waste Control Account. The Metal Shredding Facility Subaccount shall be administered by the Director of Toxic Substances Control. The fees collected pursuant to this section shall be deposited into the Metal Shredding Facility Subaccount and be available for expenditure by the department and the Office of Environmental Health Hazard Assessment, upon appropriation by the Legislature, solely for the purpose of implementation and administration of this chapter and Sections 25150.87 and 41514.6. The Director of Finance, upon request of the Director of Toxic Substances Control, may make a loan from the General Fund to the Metal Shredding Facility Subaccount to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code:

(e) (1) A regulation adopted pursuant to this section may be adopted as an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department or the Board of Environmental Safety pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department or the Board of Environmental Safety, whichever occurs sooner:

(2) Before adopting a regulation pursuant to this section, the department shall hold at least two public hearings regarding the proposed regulation, including one public hearing dedicated to assessing the impact of the proposed regulation on small metal shredding facilities as defined in this chapter:

(f) (1) A metal shredding facility paying an annual fee in accordance with this section is not subject to any of the following fees set forth in Chapter 6.5 (commencing with Section

25100), with respect to the production, transportation, and processing of metal shredder aggregate, the generation, handling, and management, transportation, and disposal of nonhazardous metal shredder residue:

(A) A fee imposed pursuant to Section 25205.7:

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

(C) A fee imposed pursuant to Section 25205.5:

(2) A metal shredding facility is subject to the fees listed in paragraph (1) for any hazardous waste generated and handled by the metal shredding facility that are ancillary to metal processing operations at the metal shredding facility:

25095.51:

(a) (1) (A) A person who applies for a metal shredding facility permit under this chapter shall enter into a written agreement with the department pursuant to which that person shall reimburse the department for the direct costs reasonably incurred by the department in processing the permit application. The fee shall be sufficient to cover the department's review of the permit application, the conduct of public meetings and notices associated with the permit process, and preparation of the permit. The permit fee shall be established on the basis of the same factors listed in subdivision (b) of Section 25095.50:

(B) The fee shall be in addition to and separate from the annual fee assessed pursuant to Section 25095.50:

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

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

(2) Paragraph (1) does not apply to projects that are exempt from CEQA:

(c) Funds received pursuant to this section shall be placed in the Metal Shredding Facility Subaccount specified in subdivision (d) of Section 25095.50 and be available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes of implementation and administration of this chapter and Sections 25150.87 and 41514.6:

Article 8. Enforcement

25095.60:

~~(a) The authority granted to the department in Article 8 (commencing with Section 25180) of Chapter 6.5 and implementing regulations set forth in Article 3 (commencing with Section 25095.10) of Chapter 22 of Division 4.5 of Title 22 California Code of Regulations may be used to enforce this chapter, including, but not limited to, the authority to conduct inspections and pursue administrative or judicial enforcement for violations of this chapter and any implementing regulations, to suspend the authorization of any metal shredding facility that has been determined based on substantial evidence to pose an imminent and substantial endangerment to human health or the environment, and to deny an application for a permit for any of the reasons set forth in paragraph (1) of subdivision (a) of Section 25095.61. These enforcement mechanisms shall apply to violations of this chapter relating to the management of materials listed in subdivision (a) of Sections 25095.20 and 25095.21:~~

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

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

~~(c) The department shall conduct an annual compliance evaluation inspection of each metal shredding facility regulated under this chapter. The unified program agency or local environmental health official shall be allowed to participate in the inspection:~~

25095.61:

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

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

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

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

~~(D) Any cause specified in Section 25186.~~

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

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

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

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

~~(6) Any person who submitted written comments on the draft permit may file an appeal of the department's final permit decision with the Office of Administrative Hearings, pursuant~~

~~to Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 22 of the Government Code. An appeal filed pursuant to this paragraph shall be limited to those conditions of the final permit that were included in the person's written comments to the department during the public comment period:~~

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

~~(c) (1) The department shall have primary responsibility for enforcement of the terms of this chapter and may refer violations of this chapter to a district attorney or the Attorney General for prosecution. Notwithstanding this authority, a city attorney, county counsel, district attorney, or the Attorney General may maintain a civil or criminal prosecution consistent with their authority. In addition, nothing in this chapter, and no action taken by the department pursuant to this chapter, shall be construed as a limitation on the right of any person to maintain any civil action otherwise authorized by law:~~

~~(2) The department shall inform the local health officer and the director of environmental health of a county, city, or district, and the unified program agency for the jurisdiction, of any unlawful disposal of materials that are regulated under Section 25095.20 or 25095.21 of this chapter, and of any enforcement action undertaken against a metal shredding facility within the unified program agency's jurisdiction as a result of that unlawful disposal. Notice shall be provided within 15 days after the department becomes aware of the violation, and the department shall coordinate with the unified program agency regarding the violation:~~

SEC. 2.

Section 25117 of the Health and Safety Code is amended to read:

25117.

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

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

(c) Unless expressly provided otherwise, "hazardous waste" also includes extremely hazardous waste and acutely hazardous waste.

~~(d) "Hazardous waste" does not include a material that is not waste pursuant to Section 25095.20 or hazardous waste pursuant to Section 25095.21:~~

Commented [MP2]: Proposing amend this section only to remove the language added by this bill. No change to 25117 otherwise.

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

SEC. 3.

Section 25150.82 of the Health and Safety Code is ~~repeated~~ amended to read:

25150.82

(a) The Legislature finds and declares that this section is intended to address the unique circumstances associated with the operation of metal shredding facilities, and the generation and management of wastes generated by metal shredding facilities. The Legislature further declares that this section does not set a precedent applicable to the management, including disposal, of other hazardous wastes.

(b) For purposes of this section, “metal shredding facility” means an operation that uses a shredding technique to process end-of-life vehicles, appliances, and other forms of scrap metal to facilitate the separation and sorting of ferrous metals, nonferrous metals, and other recyclable materials from nonrecyclable materials that are components of the end-of-life vehicles, appliances, and other forms of scrap metal. “Metal shredding facility” does not include a feeder yard, a metal crusher, or a metal baler, if that facility does not otherwise conduct metal shredding operations.

(c) The department, in consultation with the Department of Resources Recycling and Recovery, the State Water Resources Control Board, and affected local air quality management districts, ~~may~~ shall adopt regulations establishing management standards for metal shredding facilities for hazardous waste management activities within the department’s jurisdiction as an alternative to the requirements specified in this chapter and the regulations adopted pursuant to this chapter, if the department does all of the following:

(1) Prepares an analysis of the activities to which the alternative management standards will apply pursuant to subdivision (d). The department shall first prepare the analysis as a preliminary analysis and make it available to the public at the same time that the department gives notice, pursuant to Section 11346.4 of the Government Code, that it proposes to adopt the alternative management standards. The department shall include in the notice a statement that the department has prepared a preliminary analysis and a

Commented [MP3]: Propose amending to replace “may” with “shall” to compel DTSC to make regs for alt standards. Pushed back due dates by 2 years to allow for development and implementation

statement concerning where a copy of the preliminary analysis can be obtained. The information in the preliminary analysis shall be updated and the department shall make the analysis available to the public as a final analysis not less than 10 working days before the date that the regulation is adopted.

(2) Demonstrates at least one of the conclusions set forth in paragraphs (1) to (4), inclusive, of subdivision (e).

(3) Imposes, as may be necessary, conditions and limitations as part of the alternative management standards that ensure that the hazardous waste management activity to which the alternative management standards will apply will not pose a significant potential hazard to human health or safety or to the environment.

(d) Before the department gives notice of a proposal to adopt the alternative management standards pursuant to subdivision (c), and before the department adopts the regulation, the department shall do all of the following:

(1) Evaluate the operative environmental and public health regulatory oversight of metal shredding facilities, identifying activities that need to be addressed by the alternative management standards, or other advisable regulatory or statutory changes.

(2) Evaluate the hazardous waste management activities.

(3) Prepare, as required by paragraph (1) of subdivision (c), an analysis that addresses all of the following aspects of the activity, to the extent that the alternative management standards can affect these aspects of the activity:

(A) The types of hazardous waste and the estimated amounts of each hazardous waste that are managed as part of the activity and the hazards to human health or safety or to the environment posed by reasonably foreseeable mismanagement of those hazardous wastes and their hazardous constituents. The estimate of the amounts of each hazardous waste that are managed as part of the activity shall be based upon information reasonably available to the department.

(B) The complexity of the activity, and the amount and complexity of operator training, equipment installation and maintenance, and monitoring that are required to ensure that the activity is conducted in a manner that safely and effectively manages each hazardous waste.

(C) The chemical or physical hazards that are associated with the activity and the degree to which those hazards are similar to, or different from, the chemical or physical hazards that are associated with the production processes that are carried out in the facilities that produce the hazardous waste that is managed as part of the activity.

(D) The types of accidents that might reasonably be foreseen to occur during the management of particular types of hazardous waste streams as part of the activity, the likely consequences of those accidents, and the reasonably available actual accident history associated with the activity.

(E) The types of locations where hazardous waste management activities associated with metal shredding and management of treated metal shredder waste may be carried out and the types of hazards or risks that may be posed by proximity to the land uses described in Section 25227. The estimate of the number of locations where the activity may be carried out shall be based upon information reasonably available to the department.

(e) The department shall not give notice proposing the adoption of, and the department shall not adopt, a regulation pursuant to subdivision (c) unless it first demonstrates at least one of the following, using the information developed in the analysis prepared pursuant to subdivision (d) and any other information available to the department:

(1) The requirements that the alternative management standards replace are not significant or important in either of the following situations:

(A) Preventing or mitigating potential hazards to human health or safety or to the environment posed by the activity.

(B) Ensuring that the activity is conducted in compliance with other applicable requirements of this chapter and the regulations adopted pursuant to this chapter.

(2) A requirement is imposed and enforced by another public agency that provides protection of human health and safety and the environment that is as effective as, and equivalent to, the protection provided by the requirement, or requirements, that the alternative management standards replace.

(3) Conditions or limitations imposed as part of the alternative management standards will provide protection of human health and safety and the environment equivalent to the requirement, or requirements, that the alternative management standards replace.

(4) Conditions or limitations imposed as part of the alternative management standards accomplish the same regulatory purpose as the requirement, or requirements, that the alternative management standards replace, but at less cost or with greater administrative convenience, and without increasing potential risks to human health or safety or to the environment.

(f) The department shall not adopt alternative management standards pursuant to this section if those standards are less stringent than the standards that would otherwise apply under the federal act.

(g) Nothing in the alternative management standards authorized by this section is intended to duplicate or conflict with other laws, rules, or regulations adopted by other state agencies or affected local air quality management districts. The department shall, as much as possible, align the alternative management standards with the laws, rules, and regulations of other state agencies or affected local air quality management districts.

(h) The owner or operator of a metal shredding facility, or solid waste disposal facility that has accepted treated metal shredder waste, that may be subject to the alternative management standards shall provide to the department all information and data determined by the department to be relevant to the evaluation and preparation of the analysis required by subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision (d).

(i) The alternative management standards adopted by the department pursuant to this section may, to the extent it is consistent with the standards that would otherwise apply under the federal act, allow for treated metal shredder waste to be classified and managed as nonhazardous waste, provided that the analysis prepared pursuant to subdivision (d) demonstrates that classification and management as hazardous waste is not necessary to prevent or mitigate potential hazards to human health or safety or to the environment posed by the treated metal shredder waste.

(j) (1) The disposal of treated metal shredder waste shall be regulated pursuant to this chapter and the regulations adopted pursuant to this chapter, unless alternative management standards are adopted by the department pursuant to this section.

(2) If the alternative management standards adopted by the department pursuant to this section result in treated metal shredder waste being classified as nonhazardous waste, the material may be managed in either of the following manners:

(A) It may be used at a unit described in subparagraph (B) as alternative daily cover or for beneficial reuse pursuant to Section 41781.3 of the Public Resources Code and the regulations adopted to implement that section.

(B) It may be placed in a unit that meets the waste discharge requirements issued pursuant to Division 7 (commencing with Section 13000) of the Water Code that allow for discharges of designated waste, as defined in Section 13173 of the Water Code, or of treated metal shredder waste.

(3) This section does not limit the disposal or use of treated metal shredder waste as alternative daily cover pursuant to Section 41781.3 of the Public Resources Code and the regulations adopted to implement that section, or for other authorized beneficial uses if that disposal or use is at a facility meeting the requirements of subparagraph (B) of paragraph (2), is made under the authority of the hazardous waste determinations

governing metal shredder waste **previously** issued by the department ~~before January 1, 2014~~, and is made before the department does either of the following:

(A) Rescinds, in accordance with applicable law, the conditional nonhazardous waste classifications issued pursuant to subdivision (f) of Section 66260.200 of Title 22 of the California Code of Regulations with regard to treated metal shredder waste.

(B) Completes the adoption of alternative management standards pursuant to this section.

(k) The department shall complete the analysis described in paragraph (1) of subdivision (c) and subsequent regulatory action before January 1, ~~2018~~**2029**. All hazardous waste classifications and policies, procedures, or guidance issued by the department ~~before January 1, 2014~~, governing or related to the generation, treatment, and management of metal shredder waste or treated metal shredder waste shall be inoperative and have no further effect on January 1, ~~2018~~**2029**, if the department completes its analysis pursuant to subdivision (c) and takes one of the following actions:

(1) Rescinds the conditional nonhazardous waste classifications issued pursuant to subdivision (f) of Section 66260.200 of Title 22 of the California Code of Regulations with regard to that waste.

(2) Adopts alternative management standards pursuant to this section.

~~(l) The authority of the department to adopt original regulations pursuant to this section shall remain in effect only until January 1, 2018, unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date. This subdivision does not invalidate any regulation adopted pursuant to this section before the expiration of the department's authority.~~

~~(m)~~ A regulation adopted pursuant to this section on or before January 1, ~~2018~~**2029**, shall continue in force and effect after that date, until repealed or revised by the department.

SEC. 4.

Section 25150.84 of the Health and Safety Code is ~~repeated~~: **amended to read:**

25150.84.

(a) The department shall collect an annual fee from all metal shredding facilities that are subject to the requirements of this chapter or to the alternative management standards adopted pursuant to Section 25150.82. The department shall establish and adopt regulations necessary to administer this fee and to establish a fee schedule that is set at a

Commented [MP4]: Propose changes to remove sunset fee dates.

rate sufficient to reimburse the costs of the department and the Office of Environmental Health Hazard Assessment to implement this chapter and Section 41514.6, as applicable to metal shredding facilities. The fee schedule established by the department may be updated periodically as necessary and shall provide for the assessment of no more than the reasonable and necessary costs of the department and the Office of Environmental Health Hazard Assessment to implement this chapter and Section 41514.6, as applicable to metal shredding facilities.

(b) The Controller shall establish a separate subaccount in the Hazardous Waste Control Account. The fees collected pursuant to this section shall be deposited into the subaccount and be available for expenditure by the department or Office of Environmental Health Hazard Assessment upon appropriation by the Legislature.

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

(d) (1) A metal shredding facility paying an annual fee in accordance with this section shall be exempt from the following fees as the fees pertain to metal shredding activities and the generation, handling, management, transportation, and disposal of metal shredder waste:

(A) A fee imposed pursuant to Section 25205.7.

~~(B) A disposal fee imposed pursuant to Section 25174.1 until July 1, 2022.~~

~~(C) A facility fee imposed pursuant to Section 25205.2.~~

~~(D) A fee imposed pursuant to Section 25205.5.~~

~~(E) A transportable treatment unit fee imposed pursuant to Section 25205.14 until July 1, 2022, and Section 25205.2 on and after July 1, 2022.~~

(2) A metal shredding facility is not exempt from the fees listed in paragraph (1) for any other hazardous waste the metal shredding facility generates and handles.

SEC. 5.

~~Section 25150.86 of the Health and Safety Code is repealed.~~

SEC. 6.

Section 25150.87 of the Health and Safety Code is amended to read:

25150.87.

(a) (1) The department shall require metal shredding facilities to do both of the following:

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

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

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

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

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

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

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

(f) Any reasonable regulatory costs incurred by the department in implementing this section may be reimbursed by the fee on metal shredding facilities imposed pursuant to subdivision (a) of Section 25150.84.

SEC. 7.

~~Section 41514.6 of the Health and Safety Code is amended to read:~~

41514.6.

Commented [MP5]: Propose removing this repeal from the bill and leave existing 25150.86 in place.

Commented [MP6]: Propose to leave existing 25150.87 in place with minor modification to require submittal of monitoring data to local public health agencies. This also makes this section more consistent with 41514.6(b)(5)

Commented [MP7]: Proposing to remove amendment of 41514.6, leave the section as currently reads. Strike out at bottom is to remove change proposed by bill and return section to current language

(a) On or before January 1, 2027, a district the jurisdiction of which includes metal shredding facilities, in consultation with the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment, shall develop requirements for facilitywide fence-line air quality monitoring at metal shredding facilities, as defined in Section 25150.82, that are subject to Section 25150.82 and this section.

(b) The requirements developed pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) Development of threshold levels, in consultation with the Office of Environmental Health Hazard Assessment, for airborne contaminants, including, but not limited to, lead, zinc, cadmium, and nickel, at the fence lines of metal shredding facilities that are protective of air quality and public health. The threshold levels shall follow health guidance values adopted by the Office of Environmental Health Hazard Assessment, if available.

(2) Development of threshold levels for community notification of potential adverse impact on public health based on the threshold values developed pursuant to paragraph (1).

(3) Development of actions, in consultation with the Department of Toxic Substances Control, to be taken by metal shredding facilities if threshold levels developed pursuant to paragraph (1) are exceeded, and a method of enforcing those actions.

(4) Development of community notification procedures to inform the public in areas in which the metal shredding facility is located, if the monitoring required pursuant to this subdivision indicates the threshold levels developed pursuant to paragraph (2) were exceeded.

(5) Reporting the results of the monitoring required pursuant to this subdivision to the district and the local public health department.

(c) All metal shredding facilities subject to this section shall implement the facilitywide fence-line air quality monitoring developed pursuant to this section.

(d) On or before July 1, 2027, a district the jurisdiction of which includes metal shredding facilities shall adopt regulations to implement, interpret, or make specific the requirements pursuant to this section.

(e) A district the jurisdiction of which includes metal shredding facilities shall oversee and enforce the compliance of metal shredding facilities with regulations adopted pursuant to subdivision (d).

(f) Any reasonable regulatory costs incurred by a district in implementing this section may be reimbursed pursuant to its fee authority.

(g) The Office of Environmental Health Hazard Assessment's costs to implement this section shall be reimbursed from the subaccount established in the Hazardous Waste Control Account pursuant to Section ~~25095.50~~ 25150.84.

SEC. 8.

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

SEC. 9.

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