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November 20, 2015

Department of Toxic Substances Control
Hazardous Waste Management Program
Attn: Mr. Edward Benelli
1001 I Street, 11th Floor
P.O. Box 806
Sacramento, CA 95812-0806

**Re: Comments on Proposed Fee Schedule for Metal Shredding
Facilities**

Dear Mr. Benelli:

This letter is submitted on behalf of Schnitzer Steel Industries, Inc., Sims Metal Management, SA Recycling, LLC and Ecology Auto Parts, Inc., in response to the Department of Toxic Substances Control's proposed fee schedule for metal shredding facilities. The Department is authorized to impose an annual fee on metal shredding facilities, as defined in Health and Safety Code section 25150.82(b), for the purpose of reimbursing the Department's reasonable and necessary costs of implementation of SB 1249.

Annual Projected Costs for Calendar Year 2015

Schnitzer Steel, Sims, SA and Ecology are working closely with the Department on a number of issues relating to implementation of SB 1249, and are very familiar with many of the activities the Department has undertaken since enactment of the law on January 1, 2015. The categories of activities specified in the Notice Register, and the estimated costs for each category, seem reasonable with the exception of the costs (\$61,000) associated with identification of potential metal shredding facilities. In response to a request from the Department, we provided specific information to the Department on four additional metal shredding facilities that are operating (or recently operated) in California, including Universal Service Recycling (Stockton), Kramar's Iron and Metal (Sun Valley), Northstate Recycling (Redding), and

Industrial Fabricators & Scrap (Victorville). Thus the Department did not need to incur any costs to identify these four facilities (even assuming the Department was previously unaware of their existence).

In addition, we understand that various CUPAs were commissioned by the Department to visit a number of other metal recycling facilities in the state (including feeder yards operated by Schnitzer, Sims, SA and Ecology) to determine whether shredding operations were being conducted at these locations. With respect to Schnitzer, Sims, SA and Ecology, that same information could have been obtained through a phone call to each company, avoiding the cost associated with at least some of these site visits.

While we appreciate the Department's need to conduct an independent evaluation of the industry and to compile formal documentation of its activities under SB 1249, we still question whether it was necessary to expend \$61,000 (approximately 0.5 FTE) on identification of potential metal shredding facilities.

Number of Shredder Facilities Subject to the Fee for CY 2015

Based on the information we provided to the Department about other shredding facilities that are operating in the state, we believe the number of facilities subject to the fee should be at least 10, thus reducing the fee for any individual facility to \$29,000. The statute provides that *all* metal shredding facilities are subject to the fee. HSC § 25150.84(a). The four facilities mentioned above meet the definition of metal shredding facility in SB 1249 and are subject to the fee. To the extent that these facilities operated during calendar year 2015, there is no justification for excusing them from payment of the fee. These facilities will ultimately be affected by the outcome of the Department's evaluation under SB 1249 in the same manner as the state's major shredder operators, and they should be required to pay their respective shares of the Department's costs. We strongly disagree with any suggestion that the Department's imposition (and acceptance) of fees from these smaller shredders (none of which have "f" letters) somehow legitimizes these operations or otherwise compromises the Department's ability to take enforcement action against them where warranted. For example, hazardous waste generators and hazardous waste management facilities that are out of compliance with applicable regulatory requirements at all times remain subject to applicable fees — the same principle should apply to any metal shredder that is operating in the state, regardless of any enforcement action the Department is otherwise taking.

Based on the foregoing, we believe the fee for calendar year 2015 should be divided at least 10 ways, not six ways. We are also interested in knowing whether the

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Department, through its own efforts, has identified any other shredder facilities, such that the denominator should be even greater than 10.

Timing of Emergency Regulations

Ideally, the Department would have published its proposed fee schedule for comment at the same time it proposed the emergency fee regulations. It is possible that we would have had additional or different comments on the fee schedule had we been able to consider the schedule in the context of the regulations themselves. Accordingly, we are reserving the right to submit additional comments on the fee schedule once we have had an opportunity to review the proposed regulations.

Thank you for the opportunity to submit these comments.

Very truly yours,



Margaret Rosegay

cc: ISRI Shredder Coalition
Bob Hoffman