

1 **TEXT OF PROPOSED EMERGENCY REGULATIONS**

2 **Department of Toxic Substances Control Reference Number: R-2015-01**

3 **Office of Administrative Law Emergency Number: 2015-xxxx-xxx**

4 **DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS**

5 **CHAPTER 56. Annual Fee on Metal Shredding Facilities**

6
7 **Add sections 69600.1 through 69600.20 to division 4.5 of title 22 of the California Code of**
8 **Regulations, to read:**

9
10 **Chapter 56. Annual Fee for Metal Shredding Facilities**

11
12 **§ 69600.1. Scope and Purpose.**

13 (a) This chapter establishes an annual fee upon metal shredding facilities, as defined in section
14 69600.3(a), of this chapter, in order to reimburse the Department for its costs to implement
15 sections 25150.82 and 25150.84 of chapter 6.5 of division 20 of the Health and Safety Code.

16 (b) Nothing in this chapter is a limitation on the authority of any other governmental agency to
17 adopt or enforce additional requirements related to metal shredding facilities or to develop
18 any other regulatory program allowed by law.

19 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
20 Sections 25150.82(a), 25150.82(b), 25150.82(c), 25150.82(d), 25150.84(a), and 25150.84(b),
21 Health and Safety Code.

22
23 **§ 69600.2 Definitions.**

24 (a) "Metal Shredding Facility" has the same meaning as defined subsection (b) of section
25 25150.82 of chapter 6.5 of division 20 of the California Health and Safety Code.

26 (b) "Projected Annual Fee" means the Department's estimate of the annual fee for each metal
27 shredding facility based on its estimate of the reasonable and necessary costs for each
28 calendar year to implement sections 25150.82 and 25150.84 of chapter 6.5 of division 20 of
29 the California Health and Safety Code.

1 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
2 Sections 25150.82(a), 25150.82(b), 25150.82(c), 25150.82(d), 25150.84(a), and 25150.84(b),
3 Health and Safety Code.

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5 **§ 69600.3. Applicability.**

6 (a) The annual fee requirements apply to metal shredding facilities that meet all the
7 requirements set forth below:

8 (1) are located within the state of California,

9 (2) are operating using one of the following authorities or classifications that allow lawful
10 metal shredding operations:

11 (A) A notification issued by the Department in accordance with section 66260.200(f) of
12 title 22 of the California Code of Regulations that otherwise hazardous waste may be
13 classified and managed as nonhazardous. Successor entities to metal shredding
14 facilities that received the notification are included in this section;

15 (B) An order issued or entered into by the Department under chapter 6.5 of division 20
16 of the Health and Safety Code that authorizes a metal shredding facility to continue
17 operations pursuant to specified management and operating conditions;

18 (C) A judgment issued by a court with jurisdiction in a matter to which the Department
19 and at least one metal shredding facility are parties that authorizes operations
20 pursuant to specified management and operating conditions; or

21 (D) A permit issued by the Department under chapter 6.5 of division 20 of the Health
22 and Safety Code that authorizes metal shredding operations.

23 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
24 Sections 25150.82(a), 25150.82(b), 25150.82(c), 25150.84(a), and 25150.84(b), Health and
25 Safety Code.

26
27 **§ 69600.4. Assessment of the Annual Fee.**

28 (a) The Department shall assess an annual fee on each metal shredding facility in an amount
29 sufficient to reimburse the Department's annual costs.

30 (b) The Department's annual costs shall include costs incurred to conduct the following
31 activities:

- 1 (1) Development and administration of the Annual Fee;
 - 2 (2) Environmental Analysis and Evaluation;
 - 3 (3) Assessment of Off-site Migration;
 - 4 (4) Stakeholder Workshops and other outreach activities;
 - 5 (5) Regulation Development and Adoption; and
 - 6 (6) Laboratory Support.
- 7 (c) The annual fee shall be determined by dividing the Department’s annual costs by the
 8 number of metal shredding facilities operating in any portion of the calendar year to which
 9 the fee applies.
- 10 (d) To provide metal shredding facilities with the best estimate of the annual fee, the
 11 Department has projected the annual fees for calendar years 2015, 2016, and 2017 in the
 12 following fee schedule:

Calendar Year	Projected Annual Fee
2015	\$43,900
2016	\$69,800
2017	\$52,700

- 14
- 15 (e) If the annual fee invoiced differs from the Department’s projected annual fee due to higher
 16 or lower actual costs incurred for any calendar year, a change in the number of metal
 17 shredding facilities, or both, the Department shall explain any difference in the invoice to
 18 each metal shredding facility.

19 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
 20 Sections 25150.82(a), 25150.82(b), 25150.82(c), 25150.82(d), 25150.84(a), and 25150.84(b),
 21 Health and Safety Code.

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23 **§ 69600.5. Administration of the Annual Fee.**

- 1 (a) The Department shall invoice each metal shredding facility for the annual fee for calendar
2 year 2015 no later than July 1, 2016.
- 3 (b) The Department shall invoice each metal shredding facility for the annual fee for calendar
4 year 2016 no later than February 1, 2017.
- 5 (c) The Department shall invoice each metal shredding facility for the annual fee for calendar
6 year 2017 no later than February 1, 2018.
- 7 (d) The annual fee shall be due and payable to the Department sixty (60) calendar days after
8 the facility is invoiced.
- 9 (e) A transfer of ownership or operation of assets of a metal shredding facility during a calendar
10 year shall not cause an additional annual fee to be assessed if the fee for the same calendar
11 year has been paid by the previous owner or operator.

12 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
13 Section 25150.84(a), Health and Safety Code.

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15 **§ 69600.6. Administration of Late Fees.**

- 16 (a) A late fee of ten percent (10%) shall be assessed on any payment that is not received as
17 postmarked by due date, or on such later date as notified by the Department.
- 18 (b) Beginning on the first day of the calendar month following the due date, simple interest
19 shall accrue monthly on any unpaid fee or portion thereof at the “modified adjusted rate
20 per month, or fraction thereof” as established by the State Board of Equalization pursuant
21 to section 6591.5 of the Revenue and Taxation Code, and shall continue to accrue until the
22 fee is paid in full.
- 23 (c) The late fee or interest assessed pursuant to this section may be waived if the Department
24 determines that the failure to make a timely payment was due to reasonable cause and
25 circumstances beyond the person’s control, and occurred notwithstanding the exercise of
26 ordinary care and the absence of willful neglect. Mere disagreement with the fee
27 assessment shall not be deemed reasonable cause. A person seeking to be relieved of late
28 fees or interest shall submit a written statement to the Department, signed under penalty
29 of perjury, setting forth the facts upon which he or she bases the claim for relief.
- 30 (d) If the Department provides a refund because of an erroneous billing, the refund shall be
31 subject to simple interest at the “modified adjusted rate per month, or fraction thereof” as
32 established by the State Board of Equalization pursuant to section 6591.5 of the Revenue
33 and Taxation Code. Except, no refund shall be given and no interest shall accrue where the
34 erroneous billing was due to incorrect information provided by the person seeking the
35 refund.

1 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
2 Section 25150.84(a), Health and Safety Code.

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4 **§ 69600.7. Dispute Resolution.**

5 (a) No refund shall be granted for any fees erroneously collected unless the person who seeks
6 the refund submits written notification of the error to the Department within one year of
7 the date the person is notified of the fee assessment.

8 (b) A person may dispute the assessment of the annual fee by submitting a petition to the
9 Department director. The person must submit the petition in writing within one year of the
10 date the person is notified of the fee assessment. The petition must state the specific
11 grounds upon which it is founded. If requested, the Department shall hold a conference
12 with the party and provide all reasonable information and an explanation of the charges
13 assessed. If the matter cannot be resolved informally, the director shall designate a hearing
14 officer to decide the petition. The hearing officer shall be in neither a subordinate nor a
15 supervisory or managerial position to any staff involved in making the initial determination
16 of the fee assessment. A hearing shall be conducted in person, by telephone, or by video
17 conference at which all relevant evidence will be admissible. The hearing officer shall
18 prepare a written final decision to approve or deny the petition.

19 Note: Authority cited: Sections 25150.82 and 25150.84, Health and Safety Code. Reference:
20 Section 25150.84(a), Health and Safety Code.

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22 **§ 69600.8. [Reserved]**

23 **§ 69600.9. [Reserved]**

24 **§ 69600.10. [Reserved]**

25 **§ 69600.11. [Reserved]**

26 **§ 69600.12. [Reserved]**

27 **§ 69600.13. [Reserved]**

28 **§ 69600.14. [Reserved]**

29 **§ 69600.15. [Reserved]**

30 **§ 69600.16. [Reserved]**

31 **§ 69600.17. [Reserved]**

1 § 69600.18. [Reserved]

2 § 69600.19. [Reserved]

3 § 69600.20. [Reserved]