



Schnitzer Steel Industries, Inc. dba Radius Recycling Update on Environmental Compliance

February 2024



Background

Schnitzer Steel Industries, Inc. dba Radius Recycling owns and operates a scrap metal recovery and recycling facility located at 1101 Embarcadero West, Oakland, California 94607 (“Schnitzer”). Schnitzer occupies approximately 33.2 acres adjacent to the Oakland Inner Harbor waterfront and the Port of Oakland. The Facility is bounded to the south by the Oakland Inner Harbor, to the east and west by the Port of Oakland (Howard Terminal and Roundhouse Terminal respectively), and to the north by Embarcadero West and Union Pacific Railroad tracks. Community members are concerned about fires and potential exposure to pollution that may impact public health from Schnitzer’s operations.

Is the facility subject to environmental requirements?

Schnitzer is subject to federal, state, and local requirements related to air emissions, water quality, and hazardous materials and waste.

Who is involved in this matter?

Multiple agencies at the local, state, and federal level are responsible for regulating Schnitzer and have been engaged in inspection and enforcement activities. These agencies include:

- Alameda County Department of Environmental Health, Certified Unified Program Agency (CUPA)
- Bay Area Air Quality Management District (Bay Area AQMD)
- City of Oakland/Oakland City Attorney
- Alameda County District Attorney
- San Francisco Bay Regional Water Quality Control Board
- California Attorney General
- State Water Resources Control Board
- California Air Resources Board (CARB)
- California Department of Toxic Substances Control (DTSC)
- California Environmental Protection Agency (CalEPA)
- United States Environmental Protection Agency, Region 9 (US EPA)

Alameda County CUPA Actions

The Alameda County Department of Environmental Health (ACDEH) became the CUPA for the City of Oakland in 2015. As the CUPA, ACDEH implements administrative requirements, permits, inspections and enforcement of hazardous materials laws and regulations. The CUPA programs under the authority of ACDEH as a regulatory agency include:

- Hazardous Materials Business Plan (HMBP)
- Hazardous Waste Generator (HWG)
- Underground Storage Tank
- Aboveground Petroleum Storage Act (APSA)
- California Accidental Release Prevention

Schnitzer is subject to HMBP, HWG and APSA program requirements. Since becoming the CUPA for Schnitzer in 2015, ACDEH has conducted inspections and found the following violations:

- September 14, 2015, one HMBP program violation that was corrected on October 13, 2015.
- September 14, 2015, five HWG program violations that were corrected on February 16, 2016.
- September 15, 2015, four APSA program violations that were corrected on December 3, 2015.
- December 11, 2017, one HMBP program violation that was corrected on December 21, 2017.
- November 8, 2018, one HWG program violation that was corrected on December 7, 2018.
- November 5, 2019, one HMBP Notice of Violation was issued and corrected on November 11, 2019.
- April 11, 2023, four HWG program violations that have not been corrected.
- April 11, 2023, one APSA program violation that has not been corrected.
- August 10, 2023, one HMBP program violation that has not been corrected.
- August 10, 2023, three HWG program violations that have not been corrected.
- November 27, 2023, an NOV was issued for HMBP, HWG and APSA program violations. All violations were corrected on January 16, 2024. Enforcement of the violations was referred to the Alameda County District Attorney’s Office on January 26, 2024.

Details of these violations can be found in *Appendix A - Alameda County CUPA Inspections, Violations, and Return to Compliance*. In addition, ACDEH conducted HWG program inspections on June 4, 2018, and August 6, 2020, and found no violations.

Bay Area AQMD Actions

The Bay Area AQMD regulates air emissions from Schnitzer.

- 2013-2015: Investigated two (2) air pollution complaints alleged against Schnitzer (April 2013 and Sept 2015). No odors or visible emissions from the facility were observed; no violations of permit conditions or Air District regulations were found.
- 2015-2023: Conducted facility inspections May 2015, July 2016, Oct 2017, Aug 2018, Jan 2019, March 2020, Sept 2021, and June 2023 to determine compliance with Air District regulations and permit conditions. No violations were found.
- January 2017: The Air District and Schnitzer enter into a compliance and settlement agreement to allow the facility to operate for up to 4 months without abatement in violation with Air District requirements while necessary upgrades to the facility were made including upgrading abatement equipment and enclosing the shredder.
- July 2017: Conducted a facility inspection to determine compliance with the above compliance and settlement agreement. One (1) notice of violation was issued for not operating the shredder with abatement during the agreement period.
- June 2018: Investigated a non-ferrous raw stockpile fire at Schnitzer and an associated air pollution complaint. The investigation resulted in the issuance of a Notice of Violation for the following violations: 1) prohibited open burning, 2) non-compliance with its approved Emission Minimization Plan, and 3) failure to keep records.
- Nov 2018: A compliance and settlement agreement was executed between the Air District and Schnitzer to acknowledge the pending exceedance of the number of ship calls allowed in Air District permit conditions. The agreement allowed additional ship calls above its permitted limit, imposed excess emission fees and monetary penalties.
- Dec 2018: Schnitzer reported an exceedance in the number of ship calls allowed in Air District permit conditions resulting in a notice of violation for violation (issued Jan 2019) of Air District permit conditions.
- Jan 2019: A source test conducted at the Schnitzer shredder indicated a violation of Air District

Regulation 8, Rule 2 Miscellaneous Operations for excess VOCs and resulted in the issuance of a notice of violation in July 2019.

- June 2020: Investigated a fire that occurred at the tin (pre-shred) stockpile at Schnitzer, which resulted in the issuance of a notice of violation for prohibited open burning on a no burn day.
- Aug 2020: Investigated an air pollution complaint alleged against Schnitzer. Odors from the facility were not detected and no violations of permit conditions or Air District regulations were found.
- Sept 2020: A compliance and settlement agreement was executed between the Air District and Schnitzer to allow the facility to continue operating while two (2) regenerative thermal oxidizer (RTO) abatement devices were installed at the shredder to abate volatile organic compound (VOC) emissions discovered during Jan 2019. The agreement imposed enforceable timelines for the installation of the abatement devices, imposed monetary penalties for the excess VOC emissions, and required Schnitzer to provide over 46 tons of emission reduction credits.
- 2022: Investigated two (2) air pollution complaints alleged against Schnitzer in January and March. Odors or dust/particulates from the facility were not detected and no violations of permit conditions or Air District regulations were found.
- Feb 2022: An addendum to the Sept 2020 compliance and settlement agreement was executed between the Air District and Schnitzer to allow the facility to continue operating during the change out of the existing particulate abatement device at the shredder with the two (2) RTO abatement devices. The agreement imposed enforceable timelines for the changeover of the abatement devices, monetary penalties for the excess particulate matter emissions, and limits on operating hours at Schnitzer, and required additional control of particulate matter through the use of a portable mister and implementation of best management practices.
- 2022: Source tests conducted Apr 2022, July 2022, Aug 2022, and Oct 2022 at the shredder indicated violations of Air District permit conditions and resulted in the issuance of four (4) notices of violation.
- 2023: Source tests conducted Feb 2023 and April 2023 at the shredder indicated violations of Air District permit conditions and resulted in the issuance of two (2) notices of violation.

- Aug 2023: Investigated a pre-shred light tin/iron scrap stockpile fire and associated fifty-one (51) air pollution complaints. The investigation resulted in the issuance of three (3) notice of violations representing four (4) following violations: 1) public nuisance, 2) prohibited open burning, 3) excessive visible emissions, and 4) non-compliance with its approved Emission Minimization Plan.
- November 2023: A letter was sent to Schnitzer notifying the facility that the violations issued as a result of the August 2023 fire was a triggering event requiring a revision of the Emission Minimization Plan to be submitted within 30 days per Air District Regulation 6, Rule 4.
- December 2023: Air District received the revised Emissions Minimization Plan from Schnitzer. Air District staff are currently reviewing the plan for completeness.

City of Oakland/Oakland City Attorney

City of Oakland Enforcement History

The City of Oakland civilly and administratively enforces the Oakland Municipal Code, including but not limited to the Fire Code (the combined state and local provisions), Building and Maintenance Code (OMC 15.08), laws about blight (OMC Chapter 8.24), the Planning Code (OMC Title 17), and laws about storm water management and creek protection (OMC Chapter 13.16), where applicable.

Oakland Fire Department (OFD)

The Oakland Fire Department (OFD) conducts an annual inspection of Schnitzer to determine whether the facility is compliant with the Fire Code. If there are aspects of the facility that require correction, OFD will request that Schnitzer make those corrections, usually within 30 days. Once the corrections are made, OFD will issue Schnitzer an “operational hazardous materials: use, store, handle, dispense permit.”

- December 6, 2022: OFD's most recent annual inspection documented Fire Code violations relating to servicing, adding, and mounting certain fire extinguishers, labeling certain gasoline tanks, adding NFPA diamond labels where applicable, and moving certain stored cylinders. All violations were corrected. The inspection document can be found in *Appendix B - OFD Inspection Schnitzer Steel 12-6-22*.
- March 14, 2023: OFD issued Schnitzer its most recent annual permit.
- We are still identifying relevant records from prior years to share.

Beyond these annual inspections, OFD also conducts inspections of the facility when Schnitzer is doing construction work at the facility related to fire suppression systems, to ensure the work is done in compliance with the Fire Code.

Building Code and Department of Public Works

Oakland's Building Code Enforcement team and Department of Public Works have overseen construction and related permits at Schnitzer's facility over the years, and at times have had jurisdiction over storm drain inspections. We are investigating ongoing compliance. We are not aware of past Notices of Violation that have been issued against Schnitzer for non-compliance with the Building Code.

On September 11, 2020, Oakland's Department of Public Works referred Schnitzer to the San Francisco Bay Regional Water Quality Control Board and DTSC after finding evidence of PCB contamination in the storm drains near Schnitzer. Enforcement authority now lies with the Water Board. This referral form can be found in *Appendix C - Schnitzer Steel Source Property Referral (09-11-20)*.

Alameda County District Attorney

The Alameda County District Attorney's Office investigates alleged criminal and civil violations of environmental laws. As publicly announced, the Office is currently investigating the fire that occurred at Schnitzer on August 9-10, 2023. All persons who may have information regarding the causes of the fire or its impacts on community health are urged to contact the Office.

California Attorney General

- On February 3, 2021, the Attorney General's Office, DTSC, and the District Attorney of Alameda County (the “prosecution team”) filed a lawsuit against Schnitzer for violations of several environmental laws, including the Hazardous Waste Control Law, Proposition 65, the Health & Safety Code, and the Fish & Game Code, in connection with Schnitzer's operation of its metal shredding and recycling facility in West Oakland.
- On February 3, 2021, the Alameda County Superior Court entered a Consent Judgment against Schnitzer that required, among other things, the company to: 1) pay over \$2 million to fund supplemental environmental projects to install and maintain mechanical air filtration and install and implement an air quality monitoring program in West Oakland and pay over \$2 million in penalties

and costs; 2) enclose its shredder and joint products plant to prevent the release of Light Fibrous Material; 3) install two Regenerative Thermal Oxidizers to reduce Schnitzer's emissions of toxic air pollutants; and 4) provide Proposition 65 warnings to businesses and residences in the vicinity of the facility.

- The prosecution team continues to jointly monitor and enforce Schnitzer's compliance with the judgment.

State and Regional Water Board Actions

Schnitzer is regulated pursuant to National Pollutant Discharge Elimination System (NPDES) Permit CA0030228, Order R2-2022-0016 (WDID 2 01S0067). The Facility intermittently discharges treated stormwater and process wastewater to the City of Oakland's municipal separate storm sewer system, which discharges to Oakland Inner Harbor, a water of the United States within the South Bay Basin watershed. Past compliance information:

- November 9, 2016: Individually permitted by NPDES Order R2-2016-0045 to cover discharges to Oakland Inner Harbor when discharges to East Bay Municipal Utilities District are not permitted (during and within 24 hours after a rain event).
- December 8, 2016: Inspection of facility under new permit. Found that Schnitzer needed to improve housekeeping to reduce tire track out of mud at the facility.
- February 17, 2017: Inspection of the wastewater treatment system, no wastewater violations were documented.
- March 16, 2018: Inspection of the facility. Staff noted ineffective containment of industrial stormwater at the wooden pier and ponding near stockpiled materials.
- April 26, 2018: Inspection as a follow up to the previous month's inspection found Schnitzer needed to update its maintenance and monitoring strategies for its treatment plant.
- July 6, 2018: Mandatory minimum penalties of \$12,000 issued for violations of pH and copper effluent limits.
- February 15, 2019: Inspection required updates to structural upgrades and improved wheel washing effectiveness to limit tire track out.
- March 12, 2020: Final report submitted for completed 980,000-gallon storage tank to limit discharges to Oakland Inner Harbor.
- December 18, 2020: Wooden pier decommissioned to stop industrial stormwater discharges.

- October 1, 2021: Joint inspection with State Board, no major findings.
- December 20, 2021: Structural improvements such as paving the facility to limit dirt and debris track out completed and final report submitted.
- September 30, 2022: Toxicity reduction evaluation plan submitted in response to toxicity issues in wastewater.
- May 11, 2022: NPDES permit reissued with updated pollutant regulations and requirements.
- August 10, 2023: Inspection of the facility in response to fire incident. No direct observation of offsite discharge of fire suppression water or wastewater in the vicinity of the affected stockpiles.
- October 17, 2023: Regional Board in conjunction with the State Board issued a Notice of Violation to Radius Recycling requesting additional information related to offsite discharges and corrective actions to prevent future occurrences.
- November 17, 2023: Radius Recycling responds to the NOV, providing requested information, corrective measures available to prevent site runoff, and a commitment to update their pollution prevention plan.

Schnitzer is also regulated pursuant to Cleanup and Abatement Order No. R2-2013-1001 (2013 Order), which rescinded Site Cleanup Requirements issued in 1988 (Order No. 88-023). GeoTracker ID: [SL0600116612](#). The following describe Regional Water Board actions related to cleanup at the site, in addition to the 2013 Order.

- January 2, 2013: The 2013 Order required cleanup of process sediment, industrial process wastewater, and metal shredding byproducts discharged into Oakland Inner Harbor. The 2013 Order also required the Discharger to implement best management practices ("BMPs") to prevent future discharges.
- June 20, 2013: Schnitzer encountered petroleum contaminated soil and groundwater during construction of a wind barrier in nine foundations pits.
- June 25, 2013: Inspection of nine foundation pits.
- August 20, 2013: Required investigation of petroleum in soil and groundwater around nine foundation pits after petroleum was observed during excavation of nine pits in June 2013 associated with the new construction of a wind barrier.
- April 14, 2014: Notice of Violation of the 2013 Order for failure to provide adequate reports.

- March 23, 2015: Conditional approval of workplan for sampling near the nine pits for petroleum, metals, and PCBs and requirement for completion report. Schnitzer complied with the requirement and submitted a report on July 31, 2015.
- February 24, 2017: Required additional groundwater sampling for petroleum and metals. Schnitzer complied with the requirements and submitted reports on July 14, 2017, and August 18, 2017. The Regional Water Quality Control Board concurred with the reports on September 5 and December 5, 2017.
- April 16, 2019: Issued letter documenting violations of the 2013 Order and requiring two additional technical reports to determine the extent of contaminants discharged to Oakland Inner Harbor.
- October 1, 2020: Requested groundwater investigation to determine presence of PFAS chemicals.
- March 8, 2022: Approved work plan to conduct groundwater and sediment pore-water sampling for chemicals of potential concern, including PFAS. Completion report submitted September 7, 2022.

CARB Actions

CARB is responsible for protecting the public from the harmful effects of air pollution and reducing emissions that cause climate change. CARB enforces emission standards and requirements to ensure mobile sources are as clean as possible. Additionally, CARB supports and oversees air district stationary source programs. To this end, CARB staff participated in a facility inspection at Schnitzer on June 23, 2019, with US EPA and Bay Area AQMD staff. In 2020, CARB staff provided technical assistance to DTSC, the California Attorney General, and the Alameda County District Attorney to identify additional actions Schnitzer could take to reduce air pollution emissions. In 2022, CARB entered into a settlement agreement with Schnitzer that resolved alleged violations related to mobile source record keeping and reporting requirements.

DTSC Actions

DTSC regulates the generation, handling, transportation, storage, treatment, and disposal of hazardous wastes.

DTSC has conducted the following inspections since 2015:

- March 17 – 19, 2015: Inspected facility for Hazardous Waste Control Law (HWCL) compliance and violations. DTSC cited several violations of the HWCL regarding onsite management of hazardous waste. Sample analysis results indicated various soil samples and Light Fibrous Material (LFM) exceeded

Soluble Threshold Limit Concentrations and Total Threshold Limit Concentrations for Lead, Zinc, Chromium, and Copper.

- June 5, 2018: Inspected facility for HWCL compliance and violations related to a fire that occurred onsite on June 2, 2018. Cited for failure to minimize the possibility of a fire.
- June 18, 2020: Inspected facility for HWCL compliance and violations related to a fire that occurred onsite on June 17, 2020. Cited for failure to minimize the possibility of a fire and failure to remove materials that require special handling from appliances.
- December 2020 to July 2022: Beginning in December 2020, DTSC's Office of Criminal Investigations set up two total suspended particulate monitors, one southwest of Schnitzer (Southwest Monitor) and one east of Schnitzer (East Monitor), that collected particles in the air onto filters that were then weighed and analyzed for metals in a laboratory. From December 2020 to July 2022, a total of 98 samples were collected from these monitors.
- February 3, 2021: Alameda County Superior Court entered Consent Judgement (see description under California Attorney General, above). The Consent Judgement resolved the violations cited during DTSC's March 2015 inspection and violations for offsite releases of LFM through February 3, 2021.
- June 2021 to May 2023: Sampled areas outside of the facility's perimeter for LFM from the ground resulting in 23 sampling events and 67 LFM samples collected.
- December 16, 2021: Schnitzer submitted a Fixed Treatment Unit Permit By Rule notification to Alameda County CUPA to chemically treat metal shredder residue. On May 25, 2022, DTSC sent Alameda County CUPA a notice of intent to administer and assume ownership of the Permit By Rule regulations.
- March 30, 2022: A joint letter from DTSC, the Attorney General's Office, and the Alameda County District Attorney's Office (the "People") was sent to Schnitzer notifying them of continued off-site releases and deposition of LFM from their facility and identifying how they were not complying with the February 3, 2021, Consent Judgment.
- May 15-16, 2022: Inspected facility for HWCL compliance and violations. DTSC cited several violations, including but not limited to, illegal

treatment, transportation, and disposal of hazardous waste.

- September 8, 2022: Joint letter from the People sent to Schnitzer demanding that Schnitzer immediately implement additional measures to prevent the off-site release and deposition of LFM.
- January 18, 2023: Conducted a sampling follow up inspection to collect samples of the Chemically Treated Metal Shredder Residue and wastewater runoff from various treatment units.
- July 31, 2023: Final cease and desist letter was sent to Schnitzer by the People. The letter summarized the results of the total suspended particulate sampling.
- August 9 – 11, 2023: A fire occurred at the facility. Inspected facility for HWCL compliance and violations. DTSC cited failure to minimize the possibility of a fire and failure to notify the California Office of Emergency Services immediately upon discovery of the fire.
- August 30, 2023: Schnitzer responded to the People's July 31, 2023, letter that included a workplan to make changes to the facility to eliminate the release of LFM. This included upgrades to the facility and monitoring around the facility as well as a health risk assessment.
- November 8, 2023 – Conducted sampling of fire-impacted solid material collected as a follow-up to the inspection conducted on August 10, 2023, related to the fire.
- November 13, 2023: Meeting with the People and Schnitzer to discuss LFM workplan submitted as part of August 30th response from Schnitzer. DTSC followed up meeting with a letter sent to Schnitzer requesting additional information/documents and providing the People's initial comments on LFM workplan.
- January 15, 2024: The people received additional documents from Schnitzer regarding proposed HRA and air monitoring plan. That is currently under review.

DTSC has created a website for Schnitzer's Site Project Documents to help the public understand DTSC's cleanup, permitting, enforcement, and investigation efforts. Please refer to the following website for additional information:

<https://dtsc.ca.gov/hw-projects/schnitzer-steel-industries-inc/>

CalEPA Actions

CalEPA is the parent agency to six boards, departments, and offices charged with protecting public health and the environment, including DTSC, CARB, and the Water Boards. CalEPA has not exercised independent enforcement authority over activities at Schnitzer but helps to ensure enforcement and compliance activities are consistent, effective, and coordinated, including through the creation of a Rapid Response Task Force in the immediate aftermath of the August 2023 fire at Schnitzer.

US EPA Actions

US EPA Region 9 (Pacific Southwest Region) provides regulatory oversight over states, tribes, and territories. US EPA coordinates with state and local environmental regulatory agencies to ensure compliance with all federal environmental requirements. Direct enforcement is listed below:

- July 23, 2019: Clean Air Act inspection.
- January 27, 2020: Notice of Violation issued to Schnitzer for failure to apply for a major source permit and excess emissions of volatile organic compounds at the shredder.
- February 2021: US EPA provided technical support in the California Attorney General-led settlement with Schnitzer, ultimately requiring Schnitzer to pay a \$2.05 million penalty and \$2.05 million to fund supplemental environmental projects for the surrounding community. It also required installation of additional air pollution control equipment.
- April 22, 2022: The US Department of Justice and US EPA settled with Schnitzer Steel Industries nationally, requiring implementation of an EPA-approved Refrigerant Recovery Management Plan at all 40 facilities, including the west Oakland facility. This settlement also included civil penalties of \$1.55 million and implementation of an environmental mitigation project to destroy additional refrigerants.

For More Information Contact:

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