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15-DAY PUBLIC NOTICE AND COMMENT PERIOD NOTICE OF PUBLIC AVAILABILITY OF POST-HEARING CHANGES

September 20, 2008 – October 6, 2008

Consolidated Universal Waste Regulations and Authorized Treatment of Electronic Hazardous Waste

Department of Toxic Substances Control Reference Number: R-2006-02
Office of Administrative Law Notice File Number: Z-2008-0616-03

Pursuant to Government Code section 11346.8, subdivision (c), notice is hereby given that the Department of Toxic Substances Control (DTSC) has revised the text of the proposed universal waste regulations, which would address the management of batteries, and would clarify treatment residual language and various universal waste management requirements. Most of these post-hearing text changes are the result of comments received during the 45-day public comment period.

A written comment period has been established commencing on September 20, 2008 and closing on October 6, 2008.

Availability of Text of Regulations

DTSC mailed the original text and made it available for public review and comment on June 27, 2008. A public hearing was held on August 11, 2008, during which written and oral testimony was accepted. In addition, written comments were accepted during the 45-day public comment period that ended August 11, 2008. DTSC has now made post-hearing changes to the proposed text. DTSC has determined that these changes do not impact the finding of the previously proposed Notice of Exemption prepared pursuant to the California Environmental Quality Act (CEQA).

This notice and the accompanying text can be found on DTSC's internet site at <http://www.dtsc.ca.gov>. The **bold double strikeout** text and the **bold double underline** text represent the most current revisions to the original text.

Summary of Proposed Regulations Noticed During the 45-Day Public Comment Period

Proposed regulations in California Code of Regulations, title 22, division 4.5, chapter 10 (commencing with §66260.1) and chapter 11 (commencing with §66261.1):

- Establish a list of “covered electronic devices” as defined in Public Resources Code section 42463, subdivision (f), that are presumed to be hazardous waste when discarded. The devices listed are subject to the requirements of the Electronic Waste Recycling Act of 2003, as amended, and may be managed under the alternate standards for universal waste electronic devices that will be incorporated into California Code of Regulations, title 22, division 4.5, chapter 23 (commencing with §66273.1) by these proposed regulations. The listed devices are those identified in subsection (c) of appendix X of chapter 11, as amended by the R-04-12 and R-2006-05 emergency regulations. Federal regulations do not identify electronic devices that are presumed to be hazardous waste when discarded.
- Require that the manufacturer of a listed electronic device notify retailers that the electronic device is a covered electronic device subject to the Electronic Waste Recycling Act of 2003, as amended, including the payment of the fee imposed by Public Resources Code, section 42464, pursuant to Health and Safety Code section 25214.10.1, subdivision (c), and as otherwise necessary to implement the Act.
- Provide that the manufacturer of an electronic device, who has obtained DTSC concurrence that the device, when discarded, would not be a hazardous waste, as allowed by Health and Safety Code section 25214.10.1, subdivision (e), shall not be required to manage the electronic device as a covered electronic device and shall not be subject to these regulations.
- Prohibit an electronic device, pursuant to Health and Safety Code section 25214.10, from being sold or offered for sale if the electronic device is prohibited from being sold or offered for sale in the European Union due to the presence of certain heavy metals. Existing federal regulations do not prohibit the sale of electronic devices that are prohibited from sale or being offered for sale in the European Union.

Proposed regulations in California Code of Regulations, title 22, division 4.5, chapter 23 (commencing with §66273.1):

- Establish alternate standards for treatment of electronic devices as universal wastes, as authorized by Health and Safety Code section 25214.9, subdivision (b). These standards are similar to those adopted in emergency regulations R-03-19 and R-2006-02.
- Align state regulations with new federal regulations on management standards for universal waste mercury-containing equipment (MCE). To this end, regulations pertaining to various mercury-containing devices will be consolidated under “mercury-containing equipment.”

- Consolidate management standards for CRT material handlers and small quantity and large quantity handlers of universal waste under a single set of standards. Unlike federal regulations, state regulations will not distinguish between small and large quantity handlers except for notification requirements.
- Reformat and consolidate the chapter 23 regulations applicable to other universal waste streams for clarification and internal consistency.

Note: Existing federal universal waste regulations do not address universal waste electronic devices, including CRT devices, CRTs and CRT glass.

Minor amendments were also proposed to align the following sections with the proposed amendments discussed above: California Code of Regulations, title 22, division 4.5, chapters 10 (Definitions), 11 (M-listed waste), 14 (Applicability for Permitted Facilities), and 15 (Applicability for Interim Status Facilities).

Submitting Comments

DTSC considers these new changes to the rulemaking to be sufficiently related changes, as defined by California Code of Regulations, title 1, section 42. This notice includes all revisions made to the text since those indicated during the original public comment period.

Notice is given that any interested persons may submit comments regarding these revisions and only these revisions of the text by e-mail to regs@dtsc.ca.gov or by mail to:

Laura Hayashi, Regulations Coordinator
Department of Toxic Substances Control
Regulations Section
PO Box 806
Sacramento, CA 95812-0806

Written comments submitted prior to 5:00 p.m. on October 6, 2008 will be considered.

The information upon which DTSC relied is available for public inspection between 8:00 a.m. and 5:00 p.m. at the Regulations Section, located on the 22nd Floor at 1001 I Street, Sacramento, California. Requests and inquiries concerning this matter may be directed to Laura Hayashi, Regulations Coordinator, Regulations Section, at the address indicated above or by telephone at (916) 322-6409. If the Regulations Coordinator is unavailable, telephone Nicole Sotak, Chief of the Regulations Section at (916) 327-4508.

Inquiries regarding technical aspects of the proposed alternative considered should be directed to Ellen L. Haertle, Office of Policy, DTSC, at (916) 324-2437. However, such oral inquiries are not part of the rulemaking record.