

INITIAL STATEMENT OF REASONS

Consolidated Universal Waste Regulations and Authorized Treatment of Electronic Hazardous Waste -- Final Regulations

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

EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

Both the United States Environmental Protection Agency (USEPA) and the Department of Toxic Substances Control (DTSC) currently regulate the following hazardous wastes as universal wastes: batteries, lamps and mercury containing-equipment (MCE). DTSC also regulates other hazardous wastes, including electronic devices and cathode ray tube (CRT) materials, as universal waste. These other universal wastes are not regulated by USEPA as universal wastes.¹ Consequently, the proposed changes to DTSC's universal waste regulations that affect only the universal wastes that DTSC alone regulates do not duplicate or conflict with federal regulations.

Currently, both federal and State regulations divide universal waste handlers into two or more categories: small quantity handlers, large quantity handlers, and CRT material handlers. Although each category has its own standards, the standards are, in large part, duplicative. The proposed regulations include changes to consolidate these categories into one and apply that single set of standards to the consolidated category. This change is necessary because DTSC's experience has shown is that many hazardous waste generators can grasp the concept that their wastes are universal wastes, but these generators become confused when they attempt to apply the State regulations and often apply the wrong set, or only one set, of standards. Therefore, it is necessary to simplify the regulations to improve compliance and clarity. In some cases, this simplified approach results in the application of more stringent standards for handlers who would otherwise qualify as small quantity handlers under the federal regulations. DTSC's application of more stringent requirements is authorized by 40 Code of Federal Regulations section 271.1(i)(1) and Health and Safety Code section 25159.5.

The proposed regulations include changes to make the current regulations more structurally consistent with the federal MCE regulations.² DTSC cannot make the

¹ Since January 29, 2007, CRTs that are destined for recycling are excluded by USEPA from regulation as hazardous waste if certain conditions are met. USEPA states further that it presumes that electronic wastes would fall under a similar regulatory scheme as that of CRTs. This exclusion does not prohibit DTSC from regulating CRTs as universal waste. [See 71 Fed. Reg. 42928 (July 28, 2006)]

² See 70 Fed. Reg. 45508 (August 5, 2005).

regulations entirely consistent with the federal MCE universal waste regulations without expanding the substantive scope of California's current universal waste rule. At the present time, DTSC has not fully determined that the broader federal MCE universal waste regulations are adequately protective of human health and the environment. Therefore at this time, DTSC is not expanding the substantive scope of its mercury-containing universal waste regulations to match the scope of the federal regulations. DTSC's application of more stringent requirements is authorized by 40 Code of Federal Regulations section 271.1(i)(1) and Health and Safety Code section 25159.5.

Current federal regulations do not contain a list of electronic devices presumed to be hazardous wastes upon discard. Nor do they prohibit DTSC from adopting such a list and using it as the foundation for an electronic waste recycling program similar to the one proposed by these regulations implementing the California Electronic Waste Recycling Act of 2003. Similarly, the federal regulations do not prohibit DTSC from using the list as the foundation for the proposed regulations that prohibit the sale or offering for sale of electronic devices prohibited from sale in the European Union (EU) due to the presence of certain heavy metals. Federal regulations provide no criteria for such prohibitory regulations.

STUDIES RELIED ON

Report: Summary of Analytical Test Results for Portable DVD Players, California Department of Toxic Substances Control, October 4, 2006.

http://www.dtsc.ca.gov/HazardousWaste/EWaste/upload/EWaste_DVD_ExecSum.pdf

Report: Determination of Regulated Elements in Seven Types of Discarded Consumer Electronic Products, Hazardous Material Laboratory, California Department of Toxic Substances Control, January 2004.

http://www.dtsc.ca.gov/HazardousWaste/EWaste/upload/Consumer_Electronic_Products.pdf

Report: Determination of Regulated Elements in Discarded Laptop Computers, LCD Monitors, Plasma TVs and LCD TVs, Hazardous Material Laboratory, California Department of Toxic Substances Control, December 2004.

http://www.dtsc.ca.gov/HazardousWaste/EWaste/upload/HWMP_REP_SB20_LCD.pdf

Preliminary Analysis and Findings Required by Health and Safety Code Section 25150.6, DTSC Rulemaking R-01-06, Electronic Hazardous Waste Regulations, California Department of Toxic Substances Control, August 6, 2002.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/HWMP_REGS_EWaste_HSCA_analysis.pdf

Preliminary Analysis and Findings Required by Health and Safety Code Section 25150.6, DTSC Rulemaking R-02-04, Mercury Waste Classification and Management Regulations, California Department of Toxic Substances Control, July 30, 2002.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/OEARA_REGS_Mercury_HSCA_nalysis.pdf

Initial Statement of Reasons, Electronic Hazardous Waste Regulations, Department Reference Number R-01-06, California Department of Toxic Substances Control, August 6, 2002.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Oeara_regs crt isor.pdf

Electronic Hazardous Waste Regulations (R-01-06), Final Statement of Reasons, Department Reference Number R-01-06, California Department of Toxic Substances Control, January 2003.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Oeara_regs crtfsor.pdf

Initial Statement of Reasons, Mercury Waste Classification and Management, Department Reference Number: R-02-04, California Department of Toxic Substances Control, July 30, 2002.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Oeara_REGS_Mercury_ISOR.pdf

Mercury Waste Classification and Management Regulations, Updated Informative Digest, Department Reference Number: R-02-04, California Department of Toxic Substances Control, January 2003.

http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Oeara_regs_mercfsor.pdf

ALTERNATIVES CONSIDERED DISCUSSION

As the Electronic Waste Recycling Act of 2003 was implemented in 2004 and 2005, DTSC and the California Integrated Waste Management Board (CIWMB) hosted multiple workshops to ensure that the public and all stakeholders had an opportunity to be involved in the development of the emergency electronic waste regulations. These joint workshops, including internet web-casts, were held on October 16, 2003, December 11, 2003, February 6, 2004, and April 2, 2004. The Authorized Treatment of Universal Waste Electronic Devices regulations were then adopted on June, 7, 2004. After a little more than a year, DTSC held additional workshops to determine how the emergency regulations were working and to obtain stakeholder input for these final regulations. During these workshops (August 23, 2005, December 2, 2005, December 15, 2005, June 28, 2007, and July 11, 2007), stakeholders generally urged DTSC to finalize the regulations as currently proposed. Therefore the proposed regulations do not substantially alter any requirements, rights, responsibilities, conditions or prescriptions contained in the current emergency regulations.

DTSC did consider two alternatives not represented by the proposed regulations. The first alternative would have been to adopt the emergency regulations without restructuring California Code of Regulations, title 22, division 4.5, chapter 23 (Universal

Waste Regulations)³ and without the revisions reflecting the federal MCE rule. That is, the regulatory text would remain essentially the same as it is under the emergency regulations currently in effect. A second alternative would have been to directly adopt the emergency regulations without restructuring chapter 23, but with the changes reflecting the federal MCE rule or vice versa. DTSC has chosen to include both revisions to the regulations at this time. DTSC rejected the alternatives because each alternative would be an incomplete solution to both problems as compared to the chosen alternative of including both. DTSC believes these changes will improve the clarity of the universal waste regulations, and improve compliance statewide.

GENERAL STATEMENT OF REASONS OVERVIEW AND STATUTORY PROVISIONS

General Discussion

In general, this regulation package accomplishes four goals. First, this regulation package finalizes the emergency regulations, Authorized Treatment of Universal Waste Electronic Devices⁴, adopted initially by DTSC in 2004 to implement Senate Bill (SB) 20 and SB 50 (Stats. 2003, ch. 526, and Stats. 2004, ch. 863). These emergency regulations were readopted in June 2006⁵ and are the basis for these proposed regulations. Both emergency regulations created the self-implementing authorization process to conduct certain universal waste treatment activities without the issuance of a hazardous waste facility permit. Second, these proposed regulations finalize changes made in two emergency regulations adopted in December 2006: “Restriction on the Use of Heavy Metals in Covered Electronic Devices” and “Addition of Portable DVD Players to Appendix X.”⁶ Third, these proposed regulations change the structure of chapter 23. These revisions reorganize chapter 23 to (1) make the regulatory text more “user friendly,” (2) align the state regulations with the recent federal MCE rule, and (3) remove unnecessary duplicative regulatory text. Fourth, these proposed regulations adopt new requirements implementing the Restrictions on the Use of Certain Hazardous Substances (RoHS) provisions of the Electronic Waste Recycling Act of 2003 (Health & Saf. Code §25214.10).

Authorized Treatment of Universal Waste Electronic Devices

Many discarded electronic devices are hazardous wastes under the existing State requirements. As such, these devices may not be disposed in municipal solid waste landfills. SB 20 enacted the Electronic Waste Recycling Act of 2003 (Stats. 2003, ch. 526).⁷ This law establishes a statewide recovery and recycling program for many waste electronic devices. Hence, the Legislature has clearly expressed its desire that waste electronic devices be recycled rather than disposed. However, waste electronic devices

³ All further references to “chapter” refer to chapters within Cal. Code Regs., tit. 22, div. 4.5, unless otherwise indicated.

⁴ OAL reference number 04-0526-01E

⁵ OAL reference number 06-0524-02E

⁶ OAL Reference Numbers: 06-1221-02E and 06-1221-03E

⁷ Stats. 2004, ch. 863, (SB 50), which amended Stats. 2003, ch. 526 (SB 20).

recovered for recycling can still pose a significant threat to public health, worker safety, and the environment if not properly managed.

As required by SB 20 and SB 50, DTSC has identified (via emergency regulations) some video display devices that are hazardous wastes when discarded. Once identified, these devices became “covered electronic devices” (CEDs) for purposes of the Electronic Waste Recycling Act of 2003. DTSC's effort to test and identify additional covered electronic devices continues.

Public Resources Code section 42463, subdivision (g) defines “covered electronic waste” as “a covered electronic device that is discarded.” Therefore, a discarded CED is both a covered electronic waste and a hazardous waste. Accordingly, any person who handles a covered electronic waste is also managing a hazardous waste, and that person is subject to the applicable standards of Health and Safety Code, division 20, chapter 6.5 (Hazardous Waste Control Law). A covered electronic waste is also a universal waste and any person who handles a universal waste is subject to the applicable requirements of California Code of Regulations, title 22, division 4.5, chapter 23.

SB 20 granted DTSC authority to adopt emergency regulations establishing alternative management standards for electronic devices that are hazardous wastes when discarded. DTSC adopted these emergency regulations on June 7, 2004, and readopted those as emergency regulations again in June 2006; the latter emergency regulations will expire June 6, 2008. Current emergency regulations provide regulatory standards for specified hazardous waste “treatment”⁸ activities performed by recyclers of universal waste electronic devices. Absent DTSC adoption of these “alternative management standards”⁹ in the proposed regulations, covered electronic waste recyclers (universal waste electronic device recyclers) would, upon expiration of the current emergency regulations, be required by Health and Safety Code section 25201 to obtain hazardous waste facility permits or other specified forms of authorization from DTSC to continue to treat these hazardous wastes under the universal waste regulatory scheme. The proposed regulation will avoid this situation by continuing to include the “authorized treatment” standards in the universal waste rule for hazardous waste electronic devices.

The proposed regulations (proposed Cal. Code Regs., tit. 22, § 66273.70) divide the universe of hazardous waste treatment activities performed on hazardous waste electronic devices into four categories and establish a new form of authorization for three of those categories. Three of the four categories [§ 66273.70 subsecs. (c)(1), (c)(2) and (c)(3)] are “authorized treatment” under the universal waste regulations. Persons who conduct hazardous waste treatment activities in one or more of these

⁸ See Health & Saf. Code § 25123.5.

⁹ The phrase *alternative management standards* refers to regulatory standards applicable to specific hazardous wastes and associated activities in lieu of the standards that would otherwise ordinarily apply under the Hazardous Waste Control Law.

three categories may be authorized to do so under the proposed alternative management standards. The fourth category of hazardous waste treatment on hazardous waste electronic devices [§ 66273.70 subsec. (a)], is not authorized treatment under the universal waste rule. Persons who conduct hazardous waste treatment activities in this fourth category (e.g., certain chemical processing or smelting) will remain subject to the Health and Safety Code section 25201 requirements to obtain a hazardous waste facility permit and to follow the full hazardous waste standards applicable to those treatment activities.

The proposed regulations provide a “self-implementing authorization” for electronic waste recyclers who perform authorized treatment. The proposed regulations impose standards on each type of treatment activity that are commensurate with the associated hazard(s), thereby maintaining an adequate level of human health and environmental protection. This “self-implementing authorization” approach provides incentives to participate in the Electronic Waste Recycling Act of 2003 recovery program. The authorized treatment activities are:

1. Handlers who perform hazardous waste treatment on universal waste electronic devices, referred to as “authorized treatment - removal activities” [§ 66273.70 subsec. (c)(1)], will be deemed authorized by regulation to do so as long as the handler complies with specific regulatory standards.
2. Handlers (e.g., recyclers) who conduct hazardous waste treatment on universal wastes, referred to as “authorized treatment – disassembling/draining activities” [§ 66273.70 subsec. (c)(2)], will also be authorized to do so by regulation provided the handler complies with additional regulatory standards.
3. Handlers (e.g. recyclers) who conduct hazardous waste treatment on universal wastes, referred to as “authorized treatment - treatment activities” [§ 66273.70 subsec. (c)(3)], will also be authorized to do so by regulation provided the handler complies with additional regulatory standards above those of disassembly activities [§ 66273.70 subsec. (c)(2)].

List of Common Electronic Hazardous Wastes in Appendix X, Subsection (c), and Notification Requirements for Manufacturers of Covered Electronic Devices

Public Resources Code section 42463, subdivision (f)(1), defines a “covered electronic device” as a video display device containing a screen greater than four inches, measured diagonally, that is identified in the regulations adopted by DTSC pursuant to Health and Safety Code section 25214.10.1, subdivision (b). This subdivision requires DTSC to adopt regulations that identify electronic devices that DTSC determines are presumed to be a hazardous waste when discarded. The proposed regulations implement this requirement in California Code of Regulations, title 22, chapter 11,

section 66260.201 and the Appendix X list,¹⁰ referenced therein, each of which was initially adopted via emergency regulations.

To facilitate the collection of required fees (the advance recycling fees), Health and Safety Code section 25214.10.1, subdivision (c), requires a manufacturer to provide annual notification to retailers by April 1 of each year. The notification must identify any electronic device manufactured by that manufacturer that is included in Appendix X on or before December 31 of the prior year and inform retailers that the device is a covered electronic device, and is subject to Electronic Waste Recycling Act of 2003 fees. Proposed California Code of Regulations, title 22, section 66260.201, subsection (b)(1), implements, interprets and makes specific this statutory obligation as prescribed in the amended emergency regulations.

In the event a manufacturer fails to include a specific CED in the annual notice as required, or if the manufacturer did not previously provide an annual notice, proposed California Code of Regulations, title 22, section 66260.201, subsection (b)(2), requires the manufacturer to send a supplemental notice to each retailer prior to distributing that covered electronic device as prescribed in the amended emergency regulations. The purpose of the supplemental notice is to ensure that all retailers are informed that the electronic devices are covered electronic devices so recycling fees can be collected upon sale of the devices. Without a supplementary notice requirement, there could well be many cases in which retailers are legally obliged to collect the fee but have not been notified that the device they are selling is subject to the fee. Specifically, this may occur when new products are delivered to retailers after April first. Thus, requiring the supplementary notice implements, interprets, and makes specific the Electronic Waste Recycling Act of 2003's requirement that all retailers collect fees on all covered electronic devices that they sell.

Proposed California Code of Regulations, title 22, section 66260.201, subsection (b)(3), defines the content of the annual and supplemental notices as they were defined in the emergency regulations.

Pursuant to Health and Safety Code section 25214.10.1, subdivision (e), an electronic device listed on Appendix X ceases to be a CED if the manufacturer obtains the concurrence of DTSC that the device is nonhazardous. Proposed California Code of Regulations, title 22, sections 66260.201, subsections (a) and (d) and [existing] section 66260.200, subsection (d), implement, interpret, and make specific this requirement using the same language as established in emergency regulations currently adopted.

Restrictions on the Use of Certain Hazardous Substances in Electronic Devices¹¹
California Health and Safety Code section 25214.10 requires DTSC to adopt regulations "that prohibit an electronic device from being sold or offered for sale [...] if the electronic

¹⁰ See Cal. Code Regs., tit. 22, div. 4.5, ch. 11, Appen. X, subsec. (c); all further references to Appendix X refer to this section citation.

¹¹ OAL reference 06-1221-02E (adopted as emergency regulations on December 29, 2006).

device is prohibited from being sold [...] in the European Union [... by] Directive 2002/95/EC..." The proposed regulations adopt this prohibition as California Code of Regulations section 66260.202.

Reorganization of Chapter 23

The proposed regulations will reformat and consolidate chapter 23, article 2 (Standards for Small Quantity Handlers of Universal Waste, article 3 (Standards for Large Quantity Handlers of Universal Wastes) and article 7 (Standards for CRT Material Handlers) into a single article¹² to eliminate duplicative standards. The numbering sequence, titles, and regulatory text for the proposed regulations will remain generally the same as the numbering sequence, titles and text in the federal universal waste rule. The table below shows the correlation between the federal regulation designations and the proposed state designations. The table can be used to compare current chapter 23 regulations to the proposed regulations by adding the prefix "66" to the federal citation. For example, current regulations section 66273.13 corresponds to 40 Code of Federal Regulations section 273.13 and also to the proposed section 66273.33. The table is provided solely for the convenience of reviewers of these documents.

The reformatted and consolidated universal waste regulations will make chapter 23 more "user friendly." In the current format, a person who is only a "handler" is forced to read through all of the requirements that apply to handlers who also conduct authorized treatment. In addition, handlers who conduct authorized treatment or handle multiple types of universal wastes must refer to multiple sections of the regulations to locate the requirements that are applicable to their operations. The new format eliminates these problems by:

- Placing all of the "handler" standards in the front of the chapter in a single section (and article) and by relocating the more-complicated "authorized treatment" standards in separate articles in the rear of the chapter.
- Establishing one set of rules that apply to all universal waste handlers in California (as opposed to the current three sets of standards).
- Reorganizing the text to reflect changes made to the federal universal waste rule with respect to mercury-containing universal wastes. Simultaneously, these changes also consolidate duplicative sections in the current regulations.

¹² Articles 2 and 7 currently carry the same general sections as article 3. By this regulation, articles 2 and 7 are deleted and consolidated into article 3. Thus, the proposed regulations delete many duplicative sections.

Reference Table

Federal Duplicative Format				State Consolidated Format	
Subpart B Standards for Small Quantity Handlers of Universal Waste		Subpart C Standards for Large Quantity Handlers of Universal Waste		Article 3 ¹³ Standards for All Handlers of Universal Waste	
273.10	Applicability	273.30	Applicability	66273.30	Applicability
273.11	Prohibitions	273.31	Prohibitions	66273.31	Prohibitions
273.12	Notification	273.32	Notification	66273.32	Notifications and Reports
273.13	Waste Management	273.33	Waste Management	66273.33	Waste Management
273.14	Labeling/markings	273.34	Labeling/markings	66273.34	Labeling/Marking
273.15	Accumulation time limits	273.35	Accumulation time limits	66273.35	Accumulation Time Limits
273.16	Employee training	273.36	Employee training	66273.36	Personnel Training
273.17	Response to releases	273.37	Response to releases	66273.37	Response to Releases
273.18	Off-site shipments	273.38	Off-site shipments	66273.38	Off-site Shipments
273.19	Tracking universal waste shipments	273.39	Tracking universal waste shipments	66273.39	Tracking Universal Waste Shipments
273.20	Exports	273.40	Exports	66273.40	Moved to Separate Article 4

¹³ Article 2 and article 7 currently carry the same general designations as article 3. Article 2 and article 7 are repealed: In the proposed regulations, Article 2 is “Reserved,” and Article 7 is renamed with a change in content (i.e., compilation of self-implementing authorized treatment standards under a single article).

AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:

Health and Safety Code section 25140. This section grants DTSC authority to adopt, and revise when appropriate, a listing of wastes which are determined to be hazardous.

Health and Safety Code section 25141. This section grants DTSC authority to adopt, by regulation, criteria for the identification of hazardous wastes.

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards and regulations for the management of hazardous waste.

Health and Safety Code section 25150.2. This section grants DTSC authority to adopt regulations, consistent with federal law, concerning the transportation of hazardous wastes from the State across international boundaries.

Health and Safety Code section 25159. This section grants DTSC authority to adopt regulations allowing the state to maintain authorization to administer a state hazardous waste program in lieu of the federal program under the Resource Conservation Recovery Act.

Health and Safety Code section 25201. This section grants DTSC the authority to authorize the hazardous waste management activities of an owner or operator of a hazardous waste storage, treatment, transfer, resource recovery, or disposal facility or site.

Health and Safety Code section 25214.6. This section requires that mercury-containing light switches removed from motor vehicles be subject to the requirements of California Code of Regulations, title 22, division 4.5, chapter 23 and any other applicable regulations adopted by DTSC.

Health and Safety Code section 25214.9. This section grants DTSC authority to adopt regulations allowing DTSC to establish management standards as an alternative to one or more of the standards in chapter 6.5 of division 20 of the Health and Safety Code for any specified activity that involves the management of an electronic waste.

Health and Safety Code section 25214.10. This section requires DTSC to adopt regulations prohibiting an electronic device from being sold or offered for sale in California if the electronic device is prohibited from being sold or offered for sale in the EU on or after its date of manufacture to the extent that Directive 2002/95/EC prohibits that sale, or offering for sale, due to the presence of certain metals.

Health and Safety Code section 25214.10.1. This section grants DTSC authority to adopt regulations that identify electronic devices that DTSC determines are presumed

to be, when discarded, a hazardous waste pursuant to this chapter (Health & Saf. Code, ch. 6.5, div. 20).

Health and Safety Code section 25219.1. This section authorizes DTSC to implement and enforce the requirements of subsection (a) of Section 104 of the “Mercury Containing and Rechargeable Battery Management Act” (Federal Battery Management Act (FBMA), P.L. 104-142, 42 U.S.C. 14301 et seq.) as state law.

Health and Safety Code section 58012. This section grants DTSC authority to adopt regulations to execute its duties.

Public Resources Code section 42475. This section grants DTSC authority to adopt regulations to implement the provisions of the Electronic Waste Recycling Act of 2003 (Stats. 2003, ch. 526 as amended by SB 50, Stats. 2004 ch. 863).

These regulations implement, interpret, or make specific the following:

Health and Safety Code section 25140. This section grants DTSC authority to adopt, and revise when appropriate, a listing of wastes which are determined to be hazardous.

Health and Safety Code section 25141. This section specifies that DTSC shall adopt, by regulation, criteria for the identification of hazardous wastes.

Health and Safety Code section 25150. This section specifies that DTSC shall adopt, when appropriate, standards and regulations for the management of hazardous waste.

Health and Safety Code section 25150.2. This section specifies that DTSC shall adopt regulations, consistent with federal law, concerning the transportation of hazardous wastes from the State across international boundaries.

Health and Safety Code section 25159.5. This section specifies that DTSC shall, insofar as practicable, make the standards and regulations conform to corresponding federal regulations. This section does not prohibit DTSC from adopting standards or regulations that are more stringent than federal regulations.

Health and Safety Code section 25201. This section grants DTSC the authority to authorize the hazardous waste management activities to an owner or operator of a hazardous waste storage, treatment, transfer, resource recovery, or disposal facility or site.

Health and Safety Code section 25212. This section requires that any person who removes any materials (e.g., a mercury switch) from a major appliance is a hazardous waste generator, and is subject to all applicable requirements. This section establishes that failure to remove any material that requires special handling (e.g., a mercury switch) from a major appliance is a violation of Health and Safety Code, division 20,

chapter 6.5. This section also directs DTSC and the Certified Unified Program Agencies (CUPAs) to incorporate the above requirements into their respective inspection and enforcement plans, and to coordinate the regulation of removed mercury switches that are moved between jurisdictions.

Health and Safety Code section 25214.6. This section requires that mercury-containing light switches removed from motor vehicles be subject to the requirements of California Code of Regulations, title 22, division 4.5, chapter 23 and any other applicable regulations adopted by DTSC.

Health and Safety Code section 25214.9. This section allows DTSC to establish management standards as an alternative to one or more of the standards in Health and Safety Code, division 20, chapter 6.5 for any specified activity that involves the management of an electronic waste.

Health and Safety Code section 25214.10. This section requires DTSC to adopt regulations prohibiting an electronic device from being sold or offered for sale in California if the electronic device is prohibited from being sold or offered for sale in the EU on or after its date of manufacture to the extent that Directive 2002/95/EC prohibits that sale, or offering for sale, due to the presence of certain metals.

Health and Safety Code section 25214.10.1. This section requires that a manufacturer of an electronic device, which DTSC has determined to be presumed to be a hazardous waste when discarded, provide a notification to inform retailers that the electronic device is a covered electronic device and is subject to a recycling fee. This section also requires DTSC to adopt regulation to identify those electronic devices that DTSC determines are presumed to be, when discarded, a hazardous waste pursuant to Health and Safety Code, division 20, chapter 6.5.

Health and Safety Code section 25219, 25219.1, and 25219.2. Health and Safety Code section 25219 and 25219.1 require batteries covered by the FBMA to be regulated under provisions identical to those in the Federal universal waste rule. Health and Safety Code section 25219.2 requires other batteries to be managed pursuant to Health and Safety Code, division 20, chapter 6.5.

Public Resources Code section 42463. This section defines a covered electronic device.

Public Resources Code section 42465.2. This section allows a manufacturer of a covered electronic device to submit information to DTSC to show that the subject device is exempt from the EU Directive 2002/95/EC and any amendments to that directive, and therefore is not subject to the reporting requirements of this section.

Public Resources Code section 42476.5. This section requires that a person who exports covered electronic waste, or a covered electronic device intended for recycling

or disposal, to a foreign country, or to another state for ultimate export to a foreign country, shall provide certain information to DTSC prior to export.

Public Resources Code section 42479. This section requires that certain recyclers of electronic waste meet certain requirements in order to be reimbursed through the payment system established the provisions of the Electronic Waste Recycling Act of 2003 (Stats. 2003, ch. 526 as amended by SB 50, Stats. 2004, ch. 863). These requirements include that the recycler's facility be inspected by DTSC, that the facility meets certain Labor Code standards, and that facility workers are trained.

40 Code of Federal Regulations sections 261.39, 261.40, and 261.41. These federal regulations specify the export requirements for CRTs and CRTs devices.

40 Code of Federal Regulations section 273.56. This federal regulation specifies requirements for universal waste transporters shipping universal waste to certain foreign destinations.

DETAILED STATEMENT OF REASONS

Amend Table of Contents: Add the new sections to the Table of Contents for California Code of Regulations, title 22, division 4.5: chapter 10, sections 66260.201 and 66260.202; chapter 23 in its entirety. This amendment is made for clarity and consistency.

Amend or Add the following sections contained in Chapter 10. Hazardous Waste Management System: General¹⁴

Amend Section 66260.10, Definitions: Several terms and their associated definitions are added to this section. These definitions are added to chapter 10 as these terms are used throughout the remainder of division 4.5. This amendment is necessary to ensure that when these terms are encountered in chapters other than 23, persons can find an accurate definition in this section which serves as the primary location for definitions for this division. Terms added to this section are: cathode ray tube, CRT, CRT device, electronic device, and universal waste. The introductory paragraph of this section has been amended to remove the sentence that references additional definitions contained in section 66273.9 to remove confusion as this sentence is unnecessary.

An additional term, hazardous waste, has been amended to clarify that universal waste is also included in this definition. Other minor, grammatical changes have also been made to this definition so that the wastes that are included in this category of waste are listed in alphabetical order.

¹⁴ Unless otherwise specified, all regulatory citations from this point forward are to the Cal. Code Regs., tit. 22, div. 4.5.

“Mercury-containing motor vehicle light switch” has been amended to reflect the definition in chapter 23.

Amend Section 66260.23, Factors for Petitions to Include Other Wastes Under

Chapter 23: This section is amended to remove the reference to existing section 66273.13, which is being repealed in these proposed regulations, and to add the reference to new section 66273.33.5, which is being added in these proposed regulations. Section 66273.33.5 provides the waste management requirements for universal waste handlers who manage electronic devices, CRTs and CRT glass. These amendments are not substantive.

Add Section 66260.201, Classification of an Electronic Device as a Covered

Electronic Device: The purpose of this section is to implement, interpret and make specific Health and Safety Code section 25214.10.1. **Subsection (a)** is necessary to identify “covered electronic devices,” as defined in subsection (f)(1) of Public Resources Code section 42463, which are subject to an advanced recycling fee to be paid by consumers for certain listed covered electronic devices. A list of covered electronic devices is found in proposed subsection (e) of this section as well as in Appendix X of chapter 11.

Subsection (b)(1) of this proposed section implements, interprets and makes specific the statutory notification requirement required in Health and Safety Code section 25214.10.1. To facilitate the collection of required fees, Health and Safety Code section 25214.10.1, subdivision (c)(3)(B), requires a manufacturer to provide annual notification to retailers by April 1 of each year. The notification must identify any electronic device (manufactured by that manufacturer) that is included in Appendix X of chapter 11 on or before December 31 of the prior year. This notification informs retailers that the device is a covered electronic device and is subject to Electronic Waste Recycling Act of 2003 fees.

Subsection (b)(2) requires a manufacturer who fails to include a specific covered electronic device in the annual notice as required, or if the manufacturer did not previously provide an annual notice to send a “supplemental” notice to each retailer prior to distributing that covered electronic device. The purpose of the “supplemental” notice is to ensure that all retailers are informed of all of a manufacturer’s covered electronic devices in order that recycling fees can be collected upon sale of the devices. Without a “supplementary” notice requirement, there could well be many cases (e.g., a manufacturer releases a new product to its retailers) in which retailers are legally obliged to collect the fee but have not been notified that the device they are selling is subject to the fee. Thus, requiring the supplementary notice in conjunction with the annual notice implements, interprets, and makes specific the Electronic Waste Recycling Act of 2003 requirements that all retailers collect fees on all covered electronic devices that they sell.

Subsection (b)(3) specifies the information that the manufacturer is required to include in the annual and “supplemental” notices specified in subsections (b)(1) and (b)(2) of this section. It also defines “viewable screen size”; this definition is necessary to ensure that the fees are charged consistently. In essence, subsection (b)(3) facilitates a retailer’s recognition and understanding of a manufacturer’s covered electronic devices. By so doing, subsection (b)(3) implements, interprets, and makes specific the Electronic Waste Recycling Act of 2003’s requirement that retailers collect fees upon the sale of all covered electronic devices to consumers.

Subsection (c) is necessary to inform the manufacturers, many of which are located outside California and, therefore, are unfamiliar with the State's Hazardous Waste Control Law, that failure to notify the retailers may result in penalties.

Subsection (d) is necessary to implement and make specific subdivision (e)(1) of Health and Safety Code section 25214.10.1, which allows a manufacturer to apply to DTSC for concurrence on a non-hazardous determination, as specified in subsection 66260.200(d).

Subsection (e) duplicates the Appendix X list of electronic devices to this section for clarity in order to facilitate manufacturers’ compliance with the notification requirements of proposed subsection (c) so that all required fees may be collected by the retailers.

Add Section 66260.202, Restrictions of the Use of Heavy Metals in Covered Electronic Devices: This section is added to implement Health and Safety Code section 25214.10. Section 25214.10 prohibits the sale or offering for sale of a CED in California if the device is prohibited from being sold or offered for sale in the EU due to the presence of certain heavy metals. This regulation is necessary because DTSC is required by Health and Safety Code section 25214.10 to adopt regulations that prohibit the sale or offering for sale of CEDs in California if those CEDs are prohibited from being sold or offered for sale in the EU by Directive 2002/95/EC, adopted by the European Parliament and the Council of the EU on January 27, 2003, or by a subsequent amendment to the Directive.

Subsection (a) is necessary to establish the prohibition and have it take effect on January 1, 2007, for the nine categories of CEDs currently identified by DTSC in its regulations.

Subsection (b) is necessary to further define the scope of the prohibition by clarifying that only CEDs that are manufactured on or after January 1, 2007, are subject to its prohibition and, in so doing, provide an appropriate transition period for manufacturers to adjust their businesses to the imposition of the prohibition. This subsection also clarifies that existing inventory (i.e., inventory that was manufactured prior to January 1, 2007) does not have to be removed from the California market.

Subsection (c) is necessary to further define the scope of the prohibition by clarifying that the provisions of this section will not apply to a CED that is sold or offered for sale in the State only to persons for purposes of resale or offering for resale to persons outside of the State. For example, the prohibition would not apply to a distributor located in California who imports CEDs into the State and sells them only for resale outside California.

Subsection (d) is necessary to implement Health and Safety Code section 25214.10, subdivisions (b), (e), and (f). If DTSC does not adopt the exemptions adopted by the EU through subsection (d), the regulation will require manufacturers to produce devices for sale in California that meet a different standard than that imposed by Directive 2002/95/EC, an outcome that is inconsistent with Health and Safety Code section 25214.10, subdivisions (e) and (f)(1). Furthermore, if DTSC does not adopt the exemptions synchronously with the EU then the regulation will not implement (and will be inconsistent with) Health and Safety Code section 25214.10, subdivision (b) because that subsection requires DTSC to adopt a regulation that not only conforms to the original Directive, but that also conforms to the Directive "as amended thereafter."

Subsection (e) is necessary to implement the mandate of Health and Safety Code section 25214.10, subsection (d), to exclude from the regulations those devices that would otherwise be prohibited from sale or being offered for sale in California based solely on metals used to meet consumer, health or safety requirements.

Amend or Add the following Sections of Chapter 11. Identification and Listing of Hazardous Waste

Amend Section 66261.4, Exclusions: This section specifies wastes that are excluded as hazardous waste under this division. **Subsection (b)(2)** is amended to clarify that the exclusions provided in title 40 Code of Federal Regulations section 261.4 only apply if the materials are not listed in article 4.1 of this chapter. Article 4.1 provides the list of wastes that contain mercury. This amendment makes it clear that wastes listed for mercury content are not eligible for the exclusions offered under this section. A non-substantive, typographical change has been made to **subsection (b)(4)**.

Amend Section 66261.9, Requirements for Universal Waste: This section designates the specific categories of hazardous wastes that are subject to regulation as universal wastes under chapter 23. **Subsection (a)** of this section is amended to facilitate restructuring the regulations to clarify which regulations apply to bare picture tubes (CRTs) and CRT glass derived from those bare tubes, and which standards apply to whole electronic devices, which now include CRT devices (i.e., CRTs contained within an electronic device). To provide this clarification, it is necessary to amend this section to repeal CRT materials as a universal waste category and establish CRTs and CRT glass as separate categories of universal wastes under this section.

The section is also amended to remove the ambiguity created by use of the acronym “CED” to refer to the “consumer electronic devices” category of universal waste in the original text and the term “covered electronic devices” under the Electronic Waste Recycling Act of 2003. To remove this ambiguity it is necessary to re-designate the consumer electronic devices category as “electronic devices.”

This section is further amended to facilitate the restructuring of chapter 23 to adopt the format (but not the scope) of the federal MCE rule, as that rule related to the proposed universal waste category “mercury-containing equipment.” Adopting this format will improve conformity with the federal regulation and aid DTSC's authorization efforts under the Resource Conservation and Recovery Act (RCRA) program. To adopt this format, it is necessary to consolidate the various categories of mercury-containing universal wastes designated in the original text into a category designated “mercury-containing equipment.”

Although the changes alter the appearance of the section, the universe of hazardous wastes that are designated universal wastes is not altered. For example, the addition of *cathode ray tube glass* as a category appears to expand the universe of the state's universal waste regulations; however this is not the case. The CRT glass was previously designated universal waste within the category of CRT materials. Similarly, the consolidation of the various mercury-containing wastes gives the appearance of reducing the universe of universal wastes; however, this is not the case. The same wastes will remain regulated as universal wastes after adoption of these proposed regulations. The amendments are made only to facilitate restructuring chapter 23 for the regulated entities as described above.

Subsection (b) has been amended to clarify that destination facility requirements are contained in proposed article 6 of chapter 23. Section 66273.60 further provides the conditions under which destination facilities may choose to conduct certain universal wastes activities pursuant to chapter 23 standards, rather than under full hazardous waste management requirements. Without such an amendment, these activities would be required to be conducted under the full hazardous waste management requirements contained in the chapters listed in this subsection. This amendment is necessary to direct destination facilities to the appropriate article within chapter 23 that contains the applicable requirements for such facilities.

In addition to the above changes, minor editorial changes and minor grammatical and citation corrections have been made to this section.

Amend Article 4.1, Additional Lists of Hazardous Wastes, Section 66261.50, Mercury-Containing Products That Are Hazardous Wastes When Discarded: This section is amended to delete implementation dates that have expired. The term “devices” in parenthesis has been added to the M003 listing to clarify that products can include “devices” for purposes of determining what kinds of items a lamp may be contained within (e.g., lamps may be contained within electronic devices). The addition

removes ambiguities for how M003 listed wastes are managed once the lamp has been removed. Amendments have also been made to section 66273.33 to clarify that once the lamp has been removed from an M003 listed waste then that waste must be managed as an electronic device. The M003 listing has also been amended to remove the exemption for liquid crystal displays (LCDs) as these LCDs are no longer exempt, and are included as CEDs under chapter 11, appendix X (electronic devices that DTSC has presumed to be hazardous waste when discarded).

Amend Chapter 11, Appendix X, List of Chemical Names and Common Names for Hazardous Wastes and Hazardous Materials: To facilitate the implementation of the Electronic Waste Recycling Act of 2003, Health and Safety Code section 25214.10.1, subdivision (b) requires DTSC to adopt regulations identifying *electronic devices* that are presumed to be hazardous waste when discarded. The purpose of proposed Appendix X, subsection (c) is to comply with this statutory obligation. DTSC has tested the devices listed in Appendix X, subsection (c), and based upon the test results presumes these devices to be hazardous wastes when discarded. Therefore, this section has been added and is necessary for DTSC to fulfill its statutory obligation. In doing so, this section provides guidance to the regulatory community for determining which electronic devices are hazardous. The proposed text clarifies that DTSC has not tested projection type LCD and plasma televisions. This text is necessary to improve clarity for those who do not refer to the supporting data (see also Studies Relied On section, above).

**Amend the following Section to
Chapter 14. Standards for Owners and Operators of Hazardous Waste Transfer,
Treatment, Storage, and Disposal Facilities**

Amend Section 66264.1, Purpose, Scope and Applicability: This chapter establishes the minimum standards which define the acceptable management of hazardous waste. **Subsection (d)** is amended to clarify that the standards in this chapter apply to owners and operators of destination facilities which are defined in chapter 23 in section 66273.9. This amendment is necessary to clearly state that destination facilities are hazardous waste management facilities that must comply with chapter 14 requirements as those requirements pertain to permitted facilities. Without this clarifying language, ambiguities will continue in the regulated community on what minimum standards and what authorization schemes apply to destination facilities.

Subsection (g)(12) is amended to clarify that universal waste handlers and universal waste transporters, as defined in chapter 23 in section 66273.9, are not subject to the hazardous waste permitting requirements established in chapter 14, which are more stringent than chapter 23 requirements.

Amend the following Section to
Chapter 15. Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities

Amend Section 66265.1, Purpose, Scope and Applicability: This chapter establishes the minimum standards which define the acceptable management of hazardous waste during the period of interim status and until certification of final closure, or if post-closure rules apply until post-closure is complete. **Subsection (d)** is amended to clarify that the standards in this chapter apply to owners and operators of destination facilities which are defined in chapter 23 in section 66273.9. This amendment is necessary to clearly state that destination facilities are hazardous waste management facilities that must comply with chapter 15 requirements as those requirements pertain to permitted facilities. Without this clarifying language, ambiguities will continue in the regulated community on what minimum standards and what authorization schemes apply to destination facilities.

Subsection (e)(15) is amended to clarify that universal waste handlers and universal waste transporters, as defined in chapter 23 in section 66273.9, are not subject to the hazardous waste permitting requirements established in chapter 15, which are more stringent than chapter 23 requirements.

Amend, Add or Delete the following Sections to
Chapter 23. Standards for Universal Waste Management

Amend Section 66273.1, Scope: This section designates the specific categories of universal wastes that are subject to regulation under chapter 23. This section is amended to facilitate the restructuring of the regulations to clarify which regulations apply to picture tubes (CRTs) and CRT glass derived from those tubes and which standards apply to whole electronic devices. To provide this clarification, it is necessary to amend this section to delete CRT materials as a universal waste category and establish CRTs and CRT glass as separate categories of universal wastes under this section.

The proposed amendments remove the ambiguity created by use of the acronym “CED” meaning “consumer electronic devices” in the original text and the use of the term “covered electronic devices” used under the Electronic Waste Recycling Act of 2003. To remove this ambiguity it is necessary to re-designate the universal waste category consumer electronic devices as electronic devices.

Further, amendments are made to this section to facilitate the restructuring of chapter 23 to adopt the format (but not the scope) of the federal MCE rule, as that rule applies to “mercury-containing equipment.” Adopting this format will increase conformity with the federal regulation and aid DTSC's authorization efforts under the RCRA program. To adopt this format, it is necessary to consolidate the various categories of mercury-

containing universal wastes designated in the original text into a single category designated as *mercury-containing equipment*.

Subsection (b) of this section is amended to clarify the existing prohibition on the use of certain universal waste management standards to manage universal waste at destination facilities.¹⁵ This amendment, in conjunction with proposed amendments to sections 66273.9 (definition of “destination facility”) and 66273.60 (Standards for Destination Facilities) will facilitate recycling and proper universal waste management at these facilities.

In addition to the above changes, minor editorial changes are made to this section.

Amend Section 66273.2, Applicability -- Batteries: Minor amendments are necessary to correct spelling, grammar and consistency across sections within the chapter. Further, **subsection (c)(1)** is amended to clarify that a used battery becomes a waste on the date that the battery is discarded (e.g., stored prior to being sent for reclamation). **Subsection (c)(2)** is also amended to clarify that an unused battery that is not a retrograde material becomes a waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If an unused battery is a retrograde material, the unused battery becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused batteries when they are subject to requirements of chapter 23. The amendments to this section are necessary to ensure that entities that handle universal waste batteries fully understand when a battery is a waste and when it is not a waste.

Amend Section 66273.3, Applicability—Electronic Devices: This section describes the electronic devices covered under chapter 23. Amendments are made to this section to clearly limit the applicability of chapter 23 to only those universal waste electronic devices that are recycled. This limitation will provide an additional incentive, complementary to the incentives provided by the Electronic Waste Recycling Act of 2003, to recycle hazardous waste electronic devices. To achieve this result, it is necessary to amend **subsection (b)** to make the electronic device universal waste standards inapplicable to electronic devices destined for disposal as hazardous waste, managed as hazardous waste (i.e., manifested), exempted under other provisions of the regulations, or returned to service as a product.

Subsection (b)(2) is added to clarify that electronic devices that do not exhibit a characteristic of hazardous waste, and that are otherwise not identified as hazardous waste pursuant to chapter 11 (such as some listed hazardous wastes containing

¹⁵ See current §66261.9, subsec. (b).

mercury pursuant to chapter 11, article 4.1), are not to be managed under chapter 23 (i.e., they are not hazardous waste subject to regulation under this division).

This section is also amended to clearly identify for the regulated community those hazardous waste electronic devices that are not eligible for management under chapter 23 standards, even when being recycled. Rather these electronic devices must be managed in compliance with the standards for hazardous wastes. To achieve this purpose, **subsection (b)(3)** is added to clarify that only electronic devices that are identified as hazardous waste solely because they exhibit the characteristic of toxicity may be managed as universal wastes. This text was previously located in section 66273.9 and is needed in this section for additional clarity.

Subsection (b)(4) is added to clarify that electronic devices that are being recycled through being disposed are not eligible for management as universal waste pursuant to chapter 23. In such cases, these universal waste electronic devices must be managed appropriately as hazardous waste.

Subsection (b)(5) is added to clarify that universal waste electronic devices that are managed as hazardous waste must be managed in accordance with the applicable portions this division, namely chapters 10 through 16, 18, and 20 through 22.

Subsection (b)(6) is added to clarify that electronic devices that were previously identified as wastes, but have been refurbished and returned to service are not required to be managed further as universal waste (until discarded). This subsection is necessary to promote refurbishment of waste electronic devices, thus promoting reuse of electronic devices that remain serviceable.

Further, this section is amended to conform the terms used in this section to the definitional changes proposed to section 66273.9. To accomplish this purpose, “consumer electronic devices” was changed to “electronic devices” throughout this section and throughout chapter 23. Also, minor editorial changes are made to this section.

Subsection (c)(1) is amended to clarify that a used electronic device becomes a waste on the date that the electronic device is discarded (e.g., stored prior to being sent for reclamation). **Subsection (c)(2)** is also amended to clarify that an unused electronic device that is not a retrograde material becomes a waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If an unused electronic device is a retrograde material, the unused electronic waste becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused electronic devices when they are subject to requirements of chapter 23. These amendments are

necessary to ensure that entities that handle universal waste electronic devices fully understand when an electronic device is a waste and when it is not a waste.

Subsection (d) has been added to clarify that a respondent in an enforcement case who makes a claim that an electronic device is not a waste bears the burden of demonstrating that there is a known market or disposition for its use as an electronic device. This requirement is necessary to provide that person with an understanding that when the respondent claims that an electronic device is not a waste, the respondent must demonstrate certain uses for that electronic device. This requirement is also necessary to facilitate DTSC inspection and enforcement activities.

Amend Section 66273.4, Applicability—Mercury-Containing Equipment: This section is amended to consolidate all of the MCE into one section; thus repealing existing language related to “thermostats” and adding language of similar construct to the other “Applicability” sections related to MCE. This new format is necessary to conform the state regulations to recently adopted federal universal waste regulations related to mercury-containing wastes. This change is primarily in the format of the proposed regulations, although text is added [as **subsections (a) and (b)**] to provide the conditions when MCE can be managed under chapter 23 and when MCE must be managed under existing hazardous waste management requirements (i.e., under chapters 10 through 16, 18, and 20 through 22). This change does not expand the scope of these regulations to include all federal MCE-related universal waste management activities. **Existing sections 66273.4, 66273.7.1, 66273.7.2, 66273.7.3, 66273.7.4, 66273.7.5, 66273.7.6, 66273.7.7, 66273.7.8, 66273.7.9, and 66273.7.10 are repealed as a result of this consolidation.**

Subsection (c)(1) is added to clarify that used mercury-containing equipment becomes a waste on the date that the mercury-containing equipment is discarded (e.g., stored prior to being sent for reclamation), or for M001 portions of a motor vehicle when the M001 portion is first removed from the motor vehicle. **Subsection (c)(2)** is also amended to clarify that unused mercury-containing equipment that is not a retrograde material becomes a waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If unused mercury-containing equipment is a retrograde material, the unused mercury-containing equipment becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused mercury-containing equipment when they are subject to requirements of chapter 23. These amendments are necessary to ensure that entities that handle universal waste mercury-containing equipment fully understand when mercury-containing equipment is a waste and when it is not a waste.

In addition, minor amendments are made to make the regulatory text more consistent across the MCE sections.

Amend Section 66273.5, Applicability -- Lamps: This section is amended to delete expired text and make minor amendments to improve consistency across sections within the chapter.

Subsection (c)(1) is added to clarify that a used lamp becomes a waste on the date that the lamp is discarded (e.g., stored prior to being sent for reclamation).

Subsection (c)(2) is also amended to clarify that an unused lamp that is not a retrograde material becomes a waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If an unused lamp is a retrograde material, the unused lamp becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused lamps when they are subject to requirements of chapter 23. These additions are necessary to ensure that entities that handle universal waste lamps fully understand when a lamp is a waste and when it is not a waste.

Amend Section 66273.6, Applicability—Cathode Ray Tubes (CRTs) and Section 66273.7, Applicability—Cathode Ray Tube (CRT) Glass: These sections are amended to reflect the restructuring of the chapter. As currently structured, chapter 23 regulates CRT devices, CRTs and CRT glass as the single category of universal waste “CRT materials”. The amendments to sections 66273.6 and 66273.7 are necessary to implement the deletion of “CRT materials” as a universal waste category, the establishment of CRTs and CRT glass as separate categories of universal wastes, and the inclusion of CRT devices within the universal waste “electronic device” category (see section 66273.9 for the definition).

As amended, **section 66273.6** makes specific the scope of CRTs to which chapter 23 requirements apply. **Section 66273.7** similarly defines the scope of these regulations as they apply to universal waste CRT glass. These changes are necessary to:

- clarify that CRT devices (e.g., televisions and other devices that contain a CRT) are “electronic devices” (see Section 66273.9 for the definition of “electronic device” which uses the phrase CRT device);
- provide recyclers of electronics one set of standards; and
- clarify which regulations apply to CRTs (bare picture tubes that are not encased in an electronic device) and CRT glass (derived from those bare picture tubes), and which standards apply to “whole” electronic devices (which now include CRT devices).

Subsections 66273.6(c)(1) and (c)(2) are amended to clarify that a CRT becomes a waste on the date that the CRT is discarded (e.g., stored prior to being sent for reclamation) or when the CRT is physically cracked, broken, or shattered (i.e., not usable for its intended purpose as a display device). **Subsection 66273.6(c)(3)** is also amended to clarify that an unused CRT that is not a retrograde material becomes a

waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If an unused CRT is a retrograde material, the unused CRT becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” which includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused CRTs when they are subject to requirements of chapter 23. These additions are necessary to ensure that entities that handle universal waste CRTs fully understand when a CRT is a waste and when it is not a waste.

Subsection 66273.7(c)(1) is added to clarify that CRT glass becomes a waste on the date that the CRT glass is discarded (e.g., stored prior to being sent for reclamation) or when the CRT glass is released or derived from a CRT or a CRT device (i.e., no longer usable). **Subsection 66273.7(c)(2)** is also added to clarify that unused CRT glass that is not a retrograde material becomes a waste on the date when it is discarded (e.g., stored prior to being sent for reclamation). If unused CRT glass is a retrograde material, the unused CRT glass becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste). These amendments are necessary to clarify for universal waste handlers who reclaim unused CRT glass when they are subject to requirements of chapter 23. These additions are necessary to ensure that entities that handle universal waste CRT glass fully understand when CRT glass is a waste and when it is not a waste.

Repeal Sections 66273.7.1 [Reserved] through 66273.7.10 [Reserved]: These sections are repealed and are marked as “[Reserved.]” to make the regulation more consistent with the new federal universal waste rule for MCE. The applicability sections are combined into a single section, **section 66273.4** (see discussion, above).

Amend Section 66273.8, Exemptions: **Subsection (a)** of this section is repealed to remove a series of disposal exemptions that have expired and, therefore, are no longer needed. **Subsections (b) and (c)** are amended to clarify the *household generator* and *small quantity universal waste generator* exemptions. The household generator exemption is amended so that only household-derived waste is allowed the exemption (i.e., a household that generates universal wastes and manages those wastes in accordance with the exemptions prescribed in this section is considered an “exempt universal waste handler” for purposes of this chapter). DTSC’s experience is that under the current regulations, people mistakenly construe that a business person who also maintains a household could be exempt from managing the business’s universal waste if they brought that waste to their home and managed it under the household generator exemption. The amendment to proposed subsection (a) [formerly subsection (b)] is necessary to limit the exemption to only universal wastes that are used at or discarded from a household. These clarifying amendments will eliminate any further misapplication of the exemption.

Subsection (a) [formerly subsection (b)] introductory paragraph and **subsection (a)(1)** [formerly subsection (b)(1)] are amended to clarify that a household (as defined in section 66273.9) who produces universal waste is a generator of that household universal waste. This subsection is further amended to clarify that such a household generator of universal waste is exempt (i.e., households are considered “exempt universal waste handlers” for purposes of this section and this chapter) from the requirements of chapter 23 provided that this generator complies with the requirements of subsections (a)(1), (a)(2), and (a)(3). These amendments are necessary to remove ambiguities that have arisen regarding under what conditions the household universal waste exemption applies and to whom that exemption applies. Further, **subsection (a)(1)** is amended to make the disposal prohibition specific to household universal waste generators and to remove the reference to existing subsection (a) that is repealed in this proposed rulemaking.

Subsection (a)(2) is added to allow these “exempt household universal waste generators” to relinquish their universal waste to: (1) another universal waste handler (a non-exempt handler); (2) a universal waste transporter such as those used for curbside collection; (3) a destination facility (e.g., a permitted hazardous waste facility); or an authorized curbside household hazardous waste collection program.

Subsection (a)(3) [formerly subsection (b)(2)] is amended to insert the word “generator.” This is necessary to create continuity with the intent and same meaning of the word “generator” as it is used in the introduction to this section [subsection (a)]. Other amendments to subsection (a)(3) are necessary to conform the amendments to changes made elsewhere in the chapter.

Subsection (a)(3) is further amended to add subsection (a)(3)(A) which allows these household universal waste generators to conduct certain management activities on their universal wastes, provided that all the provisions of each section are complied with in conducting such activities. DTSC has carefully evaluated all the management activities that it believes household universal waste generators can conduct, provided that these generators properly manage the universal wastes and any treatment residuals appropriately (i.e., properly classify and manage any treatment materials in accordance with any applicable requirement of the division). The activities allowed under this exemption are:

- Conduct certain battery activities;
- Remove lamps;
- Remove mercury-containing batteries from mercury-added novelties;
- Comply with proposed article treatment standards when removing liquid mercury from pressure or vacuum gauges, removing mercury vehicle light switches, and/or removing mercury switches from mercury-added novelties;
- Remove discrete assemblies from electronic devices;
- Remove CRTs from CRT devices;
- Disassemble electronic devices that are not CRT devices and/or remove yokes;

- Remove mercury ampules and mercury switches from mercury-containing equipment;
- Drain liquid mercury from pressure or vacuum gauges.

The amendment to proposed **subsection (b)** [formerly subsection (c)] is necessary to make the text of this subsection consistent with the preceding amendments, and is necessary to eliminate duplicative text by incorporating a reference to amended subsection (a). This subsection is also amended to include the exemption from requirements of this chapter to those conditionally exempt small quantity universal waste generators (CESQUWGs) that manage their universal waste pursuant proposed subsection (a) requirements, as discussed above. The repealed text of existing subsection (c)(1), (c)(2) (reference to allowing management under existing section 66273.13, which is repealed by this proposed rulemaking), and (c)(3) are either provided within the new language of subsection (a) or are contained in proposed amendments to section 66273.33.

In addition, amendments are made to proposed **subsections (a) and (b)** to include express references to definitions in section 66273.9. These definition references are necessary to prevent people from inadvertently using the colloquial or federal meanings of the terms when applying the exemptions. Also, minor amendments are made to both subsections to improve overall clarity and consistency. In entirety, the proposed amendments to this section are necessary to make the language of the exemptions more clear, and to make these requirements easier to implement, thereby promoting compliance statewide.

Subsection (d) is repealed to remove confusion regarding whether persons are subject to the exemptions in subsections (a) and (b). This section has been confusing, as currently adopted, because the referenced federal sections use terms that are similar to but not identical to the State's analogous terms. Therefore, subsection (d) can provide the impression that compliance with the conditions of the exemption is optional if the person satisfies one of the referenced federal definitions. It is necessary to repeal this section to avoid such confusion, and to clarify that those persons eligible for the exemptions in subsections (a) and (b) of this section must either comply with the conditions of the exemption or must comply with all of the applicable standards for a universal waste handler.

Amend Section 66273.9, Definitions: This section is amended to add, amend or repeal terms and definitions used in chapter 23 and as explained below. In addition, some terms and definitions are relocated and/or cross referenced to appropriate sections within this division to improve clarity and consistency across the division. Some minor grammatical and/or editorial amendments are also made to those definitions not specifically discussed below.

Summary of Definitions Amendments

Added	Amended	Repealed
Ampule Closure CESQUWG CRT Current Closure Cost Estimate Electronic Device Foreign Destination Gauge Handler of Universal Waste Mercury-added lamp Mercury-containing equipment Mercury gas flow regulator Mercury thermometer Producer Treatment Universal waste dental amalgam Universal waste dilators and weighted tubing Universal waste gas flow regulator Universal waste gauge Universal waste lamp Universal waste mercury counterweights and dampers Universal waste mercury switch Universal waste rubber flooring Universal waste thermometer Universal waste treatment unit	Battery Cathode Ray Tube Conditionally exempt small quantity universal waste generator CRT glass Dental amalgam Destination facility Dilators and weighted tubing Gas flow regulator Generator Household Lamp Management Mercury-containing motor vehicle light switch Mercury-containing motor vehicle switch Mercury-containing rubber flooring Mercury-containing counterweights and dampers Mercury switch Onsite Pressure or vacuum gauge Thermometer Thermostat Universal waste Universal waste handler Universal waste transfer facility Universal waste transporter	Consumer electronic device CRT material CRT material handler Large Quantity Handler of Universal Waste LCD Mercury gas flow regulator Small Quantity Handler of Universal Waste

Add the definition of “ampule”: The definition “ampule” has been added from the federal universal waste MCE rule; this change is necessary to structurally realign chapter 23 with the federal MCE rule as it related to mercury-containing universal waste.

Add the definition of “closure”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “conditionally exempt small quantity universal waste generator”: This definition is amended to clarify that the quantities generated include RCRA hazardous wastes. This language is in the current definition and the sentence is reconstructed to remove the text which includes “CRT materials” in the generation quantity calculations. This change is necessary to remove the term “CRT materials” which is being repealed by these proposed regulations. These proposed amendments are necessary to remove inconsistent language and to clarify that generation quantities include all universal wastes, including those that would be RCRA hazardous waste. **Subparagraph (b)** of this definition is deleted to remove the quantity limits for CRTs that would qualify a generator under this category. At the time that these regulations

were originally adopted, USEPA did not regulate CRTs under the federal hazardous waste regulations, and therefore these wastes were considered by DTSC as non-RCRA hazardous wastes. Since that adoption, USEPA has further clarified that certain CRTs are excluded from hazardous waste management requirements under certain conditions. Removing these CRT quantity limits removes the incorrect assumption that these wastes are not RCRA hazardous wastes.

Repeal the definition of “consumer electronic device”: The definition “consumer electronic device” is repealed. This definition has been replaced with a new definition of “electronic device.” This change is necessary to include CRT devices within the electronic device universal waste category. This definitional change also removes confusion surrounding the acronym “CED” which is now used to mean “covered electronic device” for the purposes of implementing SB 20 and SB 50. This new term, “electronic device” and its definition improves clarity for the regulated community as it now more appropriately classifies “electronic devices” to include “all” devices that contain a CRT. For example, under the proposed definition, televisions and computer monitors are included in the new universal waste category of “electronic devices,” as one might expect, rather than segregated as their own universal waste category (i.e., CRT devices).

Amend the definition of “CRT glass”: The definition “CRT glass” is amended as necessary to clarify that CRT glass can originate from either a bare CRT or from a CRT that has been removed in a CRT device. This definition also clarifies that CRT glass managed in ways not specified in this definition is not eligible for management as universal wastes (i.e., shall be managed as hazardous waste if not sent for reclamation to a CRT glass manufacturer, or to a primary or secondary lead smelter).

Repeal the definitions of “CRT material” and “CRT material handler”: The definitions “CRT material” and “CRT material handler” are repealed as necessary to consolidate the universal waste handler categories into one entity, a “universal waste handler.”

Add the definition of “current closure cost estimate”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “destination facility”: By referencing section 66273.60, the definition “destination facility” is amended to clarify that certain universal waste management activities may be conducted at these facilities pursuant to applicable requirements in chapter 23, instead of the more stringent requirements of chapter 14 and 15, which would otherwise be applicable to a destination facility.

Add the definition of “electronic device”: The definition is added to the section to clarify the use of the term for purposes of this chapter. This new term, “electronic device” and its definition improves clarity for the regulated community as it now more appropriately classifies “electronic devices” to include “all” devices that contain a CRT. For example, under the proposed definition, televisions and computer monitors are included in the

new universal waste category of “electronic devices,” as one might expect, rather than segregated as their own universal waste category (i.e., CRT devices).

Add the definition of “foreign destination”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “gas flow regulator”: The definition “gas flow regulator” is amended as necessary to make it consistent with the federal universal waste MCE rule.

Add the definition of “gauge”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “Handler of universal waste” or “Universal waste handler”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “household”: The definition “household” is amended to make it identical to that term found in section 66260.10.

Amend the definition of “lamp”: The definition “lamp” is amended to repeal a portion of this definition that originally served to remove LCD displays and products containing them from the M003 listing in article 4.1 of chapter 11. The listing description for M003 waste has also been amended to address the fact that LCDs are no longer excluded from the M003 listing. LCDs are currently listed in appendix X of chapter 11, and thus presumed to be hazardous waste when discarded (i.e., are covered electronic devices or covered electronic waste). Therefore, this portion of the definition of “lamp” is no longer necessary. It is repealed to avoid any possibility of providing the impression that “electronic devices” containing LCDs are not lamps, and therefore, are not universal wastes.

Repeal the definitions of “large quantity handler of universal waste” and “small quantity handler of universal waste”: The definitions of “large quantity handler of universal waste” and “small quantity handler of universal waste” are repealed, and are replaced with the term “handler of universal waste” to create a single description for persons who handle universal waste. This amendment is necessary to support consolidation of chapter 23 regulations so that there is a single term used to accommodate handling any or all universal wastes.

Repeal the definition of “LCD”: The definition “LCD” is repealed to remove ambiguities resulting from LCDs described as a form of a “lamp” and those LCD displays that are listed in appendix X of chapter 11, and thus presumed to be hazardous waste when discarded (i.e., are covered electronic waste).

Amend the definition of “management”: The definition of “management” has been amended to clarify that this term is applicable to the activities listed for hazardous waste, which include universal waste.

Add the definition of “mercury-added lamp”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “mercury-containing equipment”: The definition “mercury-containing equipment” is added for purposes of this chapter. This addition is necessary to maintain the scope of the states' existing regulations, while reformatting the regulations to align with the federal universal waste MCE rule.

Amend the definition of “mercury-containing motor vehicle light switch” to clarify that these light switches are found in a truck lid, as opposed to just in the trunk itself.

Add the definition of “mercury gas flow regulator”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “mercury thermometer”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “onsite” to remove the grammatically-incorrect hyphenated term, “on-site.” The word “person” has been added to make the sentence grammatically correct.

Add the definition of “Producer”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Amend the definition of “thermostat” to remove the reference citation to existing section 66273.13, which is repealed in this proposed rulemaking. In addition, the citation referenced in existing section 66273.33 has been amended to reflect the new subsection designation from subsection (c)(2) to the new subsection (c)(5).

Add the definition of “treatment”: The definition “treatment” is duplicated from chapter 10 as it is used extensively in the proposed authorized treatment regulations found in the proposed regulations of chapter 23, article 7.

Add the definition of “universal waste dental amalgam”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “universal waste dilators and weighted tubing”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “universal waste gas flow regulators”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “universal waste gauge”: The definition is added to the section to clarify the use of the term for purposes of this chapter. Amendments have also been made to the definition of “pressure or vacuum gauge” to reflect this new definition.

Amend the definition of “universal waste handler”: The definition “universal waste handler” is amended as necessary to reflect the consolidation of the former “CRT material handler” and “universal waste handler” categories. An amendment has also been made to clarify that owners and operators of destination facilities are not universal waste handlers. In addition, amendments have also been made to clarify that persons who manage universal wastes pursuant to article 7 are also universal waste handlers. These amendments are necessary to clarify the regulatory status of these entities and to remove ambiguities in determination of that regulated status.

Add the definition of “universal waste lamp”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Add the definition of “universal waste mercury counterweights and dampers”: The definition is added to the section to clarify the use of the term for purposes of this chapter. Amendments have also been made to the definition of “mercury counterweights and dampers” to reflect this new definition.

Add the definition of “universal waste mercury switch”: The definition is added to the section to clarify the use of the term for purposes of this chapter. Amendments have also been made to the definition of “mercury switch” to reflect this new definition.

Add the definition of “universal waste rubber flooring”: The definition is added to the section to clarify the use of the term for purposes of this chapter. Amendments have also been made to the definition of “mercury-containing rubber flooring” to reflect this new definition.

Add the definition of “universal waste thermometer”: The definition is added to the section to clarify the use of the term for purposes of this chapter. Amendments have also been made to the definition of “thermometer” to reflect this new definition.

Add the definition of “universal waste treatment unit”: The definition is added to the section to clarify the use of the term for purposes of this chapter.

Repeal Article 2, [Reserved] (Sections 66273.10 through 66273.21): This article is repealed to consolidate the standards applicable to universal waste handlers under chapter 23 and to remove the duplicity of having almost identical standards for large and small quantity universal waste handlers. The repeal of this article is necessary to achieve this consolidation as the structure of the current regulations divides universal waste handlers into two groups: small quantity handlers (article 2), and large quantity handlers (article 3).

To facilitate this consolidation into a single category of universal waste handlers it is necessary to repeal the regulations applicable to small quantity handlers, and to amend the remaining regulations currently applicable to large quantity handlers so that the resultant requirements are applicable to the “new” category “universal waste handler.” The new set of universal waste handler requirements is now contained wholly as article 3, Standards for Universal Waste Handlers. These amendments are necessary to provide a single set of standards for all universal waste handlers.

Further, these amendments are necessary to eliminate the current confusion experienced among those persons who handle universal waste pursuant to the requirements of chapter 23. For example, given the current construct of chapter 23, it is not always obvious which set of standards (regulations) must be followed. Consolidation will also remove many pages of essentially duplicative regulatory text, thus streamlining universal waste handler’s ability to determine which regulations apply to their given activities. Generally, consolidating the two sets of universal waste handler standards into a single category is a non-substantive change (i.e., consolidation does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the current regulations). Consolidating and reformatting the virtually identical requirements contained in current articles 2 and 3 will enable those governed by these regulations to more readily learn and comply with a single set of regulatory standards applicable to their universal waste management activities.

The current standards for small quantity handlers who performed treatment (under the emergency regulations) are being relocated to proposed article 7, Authorization Requirements for Universal Waste Handlers Who Treat Universal Wastes. By consolidating the requirements for handlers who treat universal wastes into a new article 7, a single set of standards for persons who recycle universal waste will be realized. These amendments are necessary as they will not only make it easier for recyclers (persons who conduct universal waste treatment activities) to locate the standards that apply to them, but these amendments will also remove these treatment standards from the “waste management standards” section. In so doing, universal waste handlers who do not conduct treatment activities (i.e. approximately 95% of the handlers) will not need to sort through treatment standards that do not apply to their activities.

These amendments will also facilitate DTSC’s inspections in providing a concise set of treatment requirements for electronic waste recyclers. Current law [Pub. Res. Code §42479, subdiv. (b)(2)(A)], requires the department to inspect electronic waste recycling facilities to verify that they are operating in conformance with all applicable laws, regulations, and ordinances.

Lastly, the standards for small and large quantity universal waste handlers who export universal wastes are consolidated from section 66273.20 and 66273.40 into a new article 4, Export and Import Requirements.

Amend Article 3, Standards for Universal Waste Handlers, Section 66273.30,

Applicability: This section is amended to consolidate the standards applicable to universal-waste handlers into article 3 in order to remove duplicity. To accomplish this consolidation, it is necessary to change the name of the remaining category of universal waste handlers referred to throughout article 3 (sections 66273.30-66273.39) from “large quantity handlers” to simply “handlers” in this section and to all the other existing sections contained in article 3.

Amend Section 66273.31, Prohibitions: This section specifies certain prohibitions on the disposal of universal waste by universal waste handlers and provides disposal options which are not prohibited under this chapter.

Subsection (a) is amended to clarify that although a handler may not dispose of universal waste, the handler may send the waste for proper disposal to a destination facility. This clarification is necessary because some handlers have interpreted the current regulations as meaning the universal waste must only be recycled. The amendment clarifies that certain universal waste may be disposed; however, that disposal may only be to a destination facility which operates in compliance with applicable hazardous waste management standards.

In addition, this section is also amended to provide authority for the treatment of universal waste electronic devices, CRTs, and CRT glass pursuant to article 7 of the proposed regulations that allows such treatment as an exception to the prohibition against treatment specified in subsection (b) of this section.

Subsection (b) is amended to reflect the relocation of the handler standards for managing universal waste electronic devices from existing section 66273.33 to proposed section 66273.33.5. This proposed section incorporates by reference the standards for managing the treatment of electronic devices, CRTs, and CRT glass under article 7.

These amendments also facilitate consolidation of the universal waste handler standards into article 3. To accomplish the consolidation, it is necessary to remove the express reference to “large quantity handler” throughout this section.

Amend Section 66273.32, USEPA Notification, Department Notification, and Reporting Requirements for Universal Waste Handlers:

This section prescribes the notification and Identification Number requirements for handlers of all universal wastes. This section is amended to consolidate the notification and reporting requirements for handlers of CRTs and CRT glass into this section and make them applicable to universal waste electronic devices as well.

Subsections (a)(1) and (a)(2) are amended and subsections (b) through (e) are added to the existing regulations to address the requirements for handlers of universal

waste electronic devices, CRTs and CRT glass separate from the requirements for handlers of other universal wastes. These amendments will incorporate notification requirements for handlers of electronic devices, CRTs, and CRT glass from section 66273.32 of the current emergency regulations.

The notifications and annual reports are necessary so that DTSC can identify and inspect these handlers of electronic wastes. Without the proposed mechanism for identifying and inspecting these handler locations, these handlers would not be able to participate in the reimbursement program established by SB 50 and, in part, by CIWMB's implementing regulations. In addition, without a means to identify and inspect these handlers, handlers may improperly manage their wastes possibly resulting in environmental contamination. Hence, these regulations are necessary to implement the Electronic Waste Recycling Act of 2003 in a manner that provides adequate environmental protection.

Subsection (b) is added to require universal waste handlers who accumulate 5,000 kilograms of universal wastes that are non-RCRA hazardous waste, and thus not required to obtain an ID number from USEPA pursuant to subsection (a)(1), to obtain ID numbers issued by DTSC (i.e., State ID Numbers as is described in section 66260.10). This requirement is necessary to annually obtain accurate information on universal waste handlers to facilitate DTSC inspections and enforcement cases. This requirement will also provide DTSC with site-specific information for its enforcement electronic databases which are used state-wide.

Subsection (c) is added to require notification to DTSC by universal waste handlers who accept or accumulate electronic devices, CRTs, and/or CRT glass from any offsite source. This notification must be made 30 calendar days prior to accepting any of these universal wastes. This timeframe allows DTSC enough time to coordinate any facility inspections needed to determine whether these handlers are eligible to participate in the SB 50 reimbursement program. The information required for this notification is similar to existing notification requirements contained in the current emergency regulations (section 66273.32), and for CRTs and CRT glass in existing section 66273.82.

Subsection (c)(3) has been added such that notifications made pursuant to this subsection are required to be made by the universal waste handler for each separate location (e.g. collection or accumulation location) where these universal wastes are accepted. For purposes of implementing this subsection, each location is considered a separate universal waste handler for notification and inspection purposes. Thus, if one company has several locations at which these universal wastes are collected or accumulated each location is a separate handler. As separate universal waste handlers, a notification must be made 30 calendar days prior to accepting or accumulating those universal wastes at each location.

Subsection (d) has been added to include the annual reporting requirement for universal waste handlers who accept from any offsite source more than 100 kilograms

(220 pounds) of electronic devices, CRTs, and CRT glass. The annual reporting requirements for universal waste handlers who accept CRT devices (included in the category of electronic devices proposed in this rulemaking), CRTs and CRT glass that are incorporated in this new subsection are contained in existing section 66273.83, subsection (c)(6), which is repealed in this proposed rulemaking. Similarly, the annual reporting requirements for universal waste handlers who accept electronic devices that are incorporated in this new subsection are contained in existing emergency regulations section 66273.33, subsection (d)(2)(B).

Amend Section 66273.33, Universal Waste Management Requirements for Batteries, Lamps, and Mercury-Containing Equipment: This section contains waste management requirements for all universal wastes except CRT devices, CRTs and CRT glass (which are found in proposed section 66273.33.5).

This section is amended to remove language applicable to managing “consumer electronic devices,” which has been repealed and replaced with the term universal waste “electronic device.” The repeal of this language is necessary to consolidate the management standards applicable to handlers of universal waste electronic devices, CRTs and CRT glass in a new and separate section 66273.33.5. Section 66273.33, subsection (d) of the current regulations addresses “consumer electronic device” management standards, which under the proposed regulations is re-designated “electronic devices” and is expanded to include CRT devices. Consequently, to accomplish this intended amendment purpose it is necessary to **repeal subsection (d) text from this section and insert that repealed text into proposed section 66273.33.5.**

This amendment will also consolidate the MCE requirements and mirror the format of the federal universal waste MCE regulations. To accomplish this consolidation it is necessary to amend proposed section 66372.33(c) to include the mercury-containing universal waste standards from the following sections: 66273.13(b), 66273.13(e) through (i), 66273.21, 66273.33(b), 66273.33(e) through (i), and 66273.41. These changes are necessary for RCRA authorization of the universal waste regulations and to eliminate many duplicative sections of regulatory text.

The introductory paragraph of this section describes the universal wastes for which this section applies, and the text also provides the appropriate section reference where waste management requirements are prescribed for electronic devices, CRTs, and CRT glass. This language is necessary to provide clarity for the location of each set of management requirements. In addition, clarifying language is added for handlers of universal wastes that are both an electronic device and an M003 waste [e.g., an electronic device that contains a lamp (an M003 waste)]. In such cases, once the lamp has been removed from the electronic device, then the waste no longer is managed under this section as an M003 waste, but is managed as an electronic device under section 66273.33.5.

Proposed **subsection (b)** [formerly subsection (c)] is amended to include the parenthetical phrase “(including M003 wastes that contain lamps)” to clarify that the requirements apply to universal waste lamps and also to those products that contain such lamps for which the M003 listing apply. This phrase is included in the introductory paragraph to add clarity to the term “lamps”.

Subsections (c)(3), (c)(4), (c)(5) include the phrase “under reasonably foreseeable conditions” to clarify that universal waste handlers should plan for changing conditions that could affect the structure of the mercury-containing equipment such that there is release to the environment of a universal waste or a component of a universal waste.

Minor amendments (e.g., removing the term “large quantity” and re-lettering subsections) are also made to improve clarity and consistency across this article and chapter.

Add Section 66273.33.5, Universal Waste Management Requirements for Electronic Devices, CRTs, and CRT Glass: This section is amended to consolidate the management standards applicable to handlers of universal waste electronic devices, CRTs and CRT glass into a separate section within article 3. This consolidation is necessary to improve the clarity and readability of the regulations. To accomplish this consolidation, it is necessary to incorporate current subsection 66273.33(d), (amended, as necessary, to rename the “consumer electronic device” category as “electronic devices” as discussed above), into section 66273.33.5. This is accomplished through **subsection (a)** of proposed section 66273.33.5.

Subsections (b) and (c) are added to complete the consolidation, and it is also necessary to incorporate the management standards applicable to CRTs and CRT glass, which were contained in current regulations under section 66273.83 (which is proposed to be repealed in this rulemaking).

In addition, amendments have been made to existing language in current section 66273.83 which has been carried over to this proposed section to clarify issues that have arisen concerning compliance ambiguities. The amendments to current section 66273.33.5 language include:

- **Subsection (a)(1)(B)** is added to clarify that, in managing electronic devices to prevent a release to the environment, handlers of electronic devices should plan for changing conditions, i.e., “reasonably foreseeable conditions”.
- **Subsection (a)(1)(B)1.a** is added to specify general containment requirements.
- **Subsection (a)(1)(B)1.b** is added to change the word “shrink-wrap” to “stretch film” to more accurately describe the plastic wrapping used to encase large pallets of universal waste electronic devices. This subsection is also amended to include the provision that electronic devices handlers should plan for changing conditions, i.e., “reasonably foreseeable conditions”, that could result in a release

to the environment from inadequate structural integrity of intact electronic devices.

- **Subsection (a)(1)(B)2** is added to clarify that broken electronic devices shall be immediately cleaned-up when the device is unintentionally or accidentally broken and if that broken electronic device is reasonably expected to cause a release to the environment (e.g., a release of a hazardous constituent to air, water or soil). This subsection no longer contains the requirement in existing regulation that these containers be closed. DTSC has found that this requirement is not necessary to ensure that a release does not occur; rather, meeting the performance standard to “prevent releases of components to the environment” can include any measure used to prevent a release, including using closed containers or any similar means. In addition, DTSC has also learned that in some cases where electronic devices are managed, it is not practicable to open and close a container when doing so could further damage the electronic device or create unnecessary hazards and safety risks to workers.
- **Subsection (b)(1)(B)** is added to clarify that, in managing CRTs to prevent a release to the environment, CRT handlers should plan for changing conditions, i.e., “reasonably foreseeable conditions”.
- **Subsection (b)(1)(B)2** is added to clarify that CRT handlers should plan for changing conditions, i.e., “reasonably foreseeable conditions”, that could result in a release of CRT glass/CRT parts to the environment from inadequate structural integrity of the containers used to package broken CRTs.
- **Subsection (b)(1)(B)3** is added to clarify that CRTs shall be placed in a container to prevent breakage. Current language contained in section 66273.83 (which is proposed to be repealed in this rulemaking) states that sufficient packaging must be used when placing CRTs into a container. DTSC has learned that packaging materials used in such a manner hinder recycling of CRTs at glass recycling facilities. By requiring packing material be added to the container when necessary to prevent breakage, the amendment promotes recycling without lessening protection of human health and the environment.

Subsections (a)(2), (b)(2) and (c)(2) are added to incorporate by reference the alternative management standards for treatment of universal waste electronic devices, CRT and CRT glass that are consolidated in proposed article 7. The standards for conducting authorized treatment of electronic devices are necessary to provide a form of authorization for the electronic device handlers that conduct these activities, and to implement the Electronic Waste Recycling Act of 2003 (i.e., these standards are necessary to implement Health & Saf. Code §25201).

Subsection (a)(3) provides an exemption from the treatment requirements of proposed article 7 to universal waste handlers who manage intact electronic devices. This exemption is only allowed when those universal waste handlers comply with subsections (a)(1), (a)(3)(A), and (a)(3)(B) of this section. **Subsection (a)(3)(A) and (a)(3)(B)** are added to clarify that a universal waste handler who manages electronic devices under the exemption provided in this subsection shall ensure that those intact

electronic devices remain intact. Language has been added to this subsection to clarify that the “intact” standard does not apply when electronic devices are accidentally or unintentionally broken. This subsection does not apply when electronic devices are deliberately “broken” (e.g., dismantled or crushed) as a result of authorized management activities conducted pursuant to this chapter.

Amend Section 66273.34, Labeling/Marking: This section is amended to accomplish consolidation of the handler standards into a single section within this article. To accomplish this consolidation, it is necessary to amend **subsections (d), (e), (f) and (g)** to specify the labeling/marketing requirements for electronic devices, CRTs and containers of CRT glass.

Subsections (e) through (l) are repealed and **subsection (b)** is amended to consolidate the MCE requirements in conformance with the format of the federal universal waste MCE regulations. To accomplish this consolidation it is necessary to delete the labeling/marketing requirements for each specific type of mercury-containing device (e.g., thermostats, gauges, etc.) established in current regulatory language and to provide the labeling/marketing requirements under a single universal waste category, “mercury-containing devices.” These changes are necessary for RCRA authorization of the universal waste regulations and to eliminate many duplicative sections of regulatory text.

This section is also amended to facilitate Certified Unified Program Agency (CUPA) and DTSC inspections as some labeling phrases have been found to be problematic by the regulated community. For example, a container labeled “used batteries” may not necessarily contain “waste batteries.” Therefore, it is not clear whether the contents of such a container are subject to the universal waste standards. To require universal wastes to be clearly labeled as such it is necessary to amend the specified labeling phrases throughout section 66273.34.

Subsection (g) is amended to allow the accumulation and segregation of larger quantities of electronic devices by collectors and recyclers participating in the Electronic Waste Recycling Act of 2003 program. The amendments include allowing the accumulation of universal waste electronic devices, CRTs, and containers of CRT glass in a designated area if the boundaries are labeled with the words typically used to label containers or pallets of universal waste electronic devices, CRTs, and/or CRT glass. This language duplicates labeling requirements for CRT devices, CRTs, and CRT glass under existing regulations of section 66273.84, subsection (d), which is repealed in this proposed rulemaking. Similarly, for electronic devices this requirement is found under existing emergency regulations section 66273.14, subsection (d)(1) and 66273.34(d)(1).

Amend Section 66273.35, Accumulation Time Limits: This section specifies the one year accumulation time limit for universal wastes. **Subsection (b)** is repealed to clearly establish the one-year accumulation time limit for all handlers. This change will require all handlers of universal waste to send their universal waste to another location at least

once a year. The accumulation time limit is necessary to prevent stockpiled wastes from being ignored instead of being properly managed. Ordinarily, one year will provide sufficient time for all handlers to make proper arrangements for their universal wastes. Universal waste handlers typically do not keep waste for longer than a year because of storage area limitations and inventory control burdens.

To accomplish consolidation of the handler standards within this article, it is also necessary to make minor editorial changes to the section. These changes include repeal of the term “large quantity handler” and replacement with the term “universal waste handler.”

Subsection (b)(5) is amended to clarify that accumulation areas be specifically marked or labeled to indicate the earliest date that universal waste was placed in that particular area. Such marking or labeling is necessary to ensure that accumulation times are not exceeded and to facilitate DTSC inspection and enforcement activities.

Amend Section 66273.36, Personnel Training: This section specifies the training requirements for personnel who handle or manage universal waste at universal waste handler facilities. These requirements are based on the existing regulations applicable to “large quantity handlers” and to “CRT material handlers.” With the repeal of those categories of handlers and the consolidation of all handler requirements under proposed article 3, DTSC believes that a single training requirement for all universal waste handlers will facilitate increased compliance and enforcement.

The section title and **subsection (a)** have been amended to reflect that training shall be provided to any “personnel” as opposed to any “employee.” This amendment is necessary to clarify that at many universal waste handler facilities, persons who handle and/or manage universal waste are not always employed by the universal waste handler. Many of these persons are volunteers, such as the case in public entity-sponsored collection events, prisoners and/or other persons whom are not employees. In such cases, without the requirement to train “personnel” and to only train “employees,” these volunteers would handle universal waste without appropriate information on the hazards posed, nor have access to information if an emergency or release should occur.

The amendments to this section provide clear and objective training standards and specify when and how the training must be documented. These changes are necessary to support DTSC and CUPA enforcement efforts. Under the current regulations inspectors have no means of determining if the required training was actually performed.

This section is amended to accomplish consolidation of the all handler training standards into article 3. Under articles 2 and 3 of the existing regulations, sections 66273.16 and 66273.36 govern the training standards for handlers of all the types of universal wastes other than CRT materials. To accomplish the consolidation, it is

necessary to combine these two sections and to import the training standards for CRT material handlers from article 7 of the existing regulations into this section. Direct combination of these sections would, however, impose the more rigorous training standards of current article 7 (for CRT material handlers) upon all handlers. To avoid this, DTSC proposes that the training requirements only apply to “persons who manage universal waste from offsite sources at the universal waste handler’s facility.” This language makes specific the distinction between persons who manage universal waste received from offsite sources, and those persons who only handle universal wastes generated onsite. The more rigorous training requirements are placed on the former group of persons handling universal waste at a universal waste handler’s facility.

Subsection (a) is also amended to define those persons who perform certain handling activities and whom also do not simply generate universal waste in the course of conducting their normal duties. This definition is necessary to clarify which persons need specific universal waste management training (e.g., a worker tasked with removing CRTs from electronic devices) and those persons who do not (e.g., an office worker who generates used batteries as a result of using an adding machine). This subsection is also amended to remove the phrase “during normal facility operations and emergencies” because this term limits the conditions when training is necessary, and it duplicates other proposed amendments to this section. The amended language of this subsection clearly states that training is provided such that personnel are thoroughly familiar with proper universal waste management and emergency response procedures. Both of these conditions are contained in the removed phrase.

Subsection (b) is added to require that persons falling under the definition provided in proposed subsection (a) be trained initially and annually thereafter. This requirement is necessary to ensure that persons gain training prior to beginning their duties and that annual training is provided to ensure that these persons are provided with up-to-date information.

Subsection (b) also requires that certain information be provided during training. These amendments are necessary to ensure these personnel are provided with adequate, basic information (from the universal waste handler) so that they can identify and properly manage any universal wastes they manage in the course of their work.

Subsection (b)(4) includes a requirement that “hazmat employees”, as defined in 49 Code of Federal Regulations section 171.8, involved in shipping universal wastes that are hazardous materials receive training pursuant to the applicable requirements prescribed in 49 Code of Federal Regulations section 172.704. This provision is necessary to clarify that additional training standards prescribed by the federal Department of Transportation are also required for hazmat employees.

Subsection (c) is added so that training records are maintained and indicate the date and persons who received such training. This amendment is necessary to facilitate compliance with the training requirements, to document who received training, and to

provide DTSC inspection staff with a means to verify that the appropriate persons have been trained.

Subsection (d) is added to require that training records be maintained for at least three (3) years from the date the person last managed universal waste at that facility. This requirement is necessary so that documentation can be made available during facility inspections to ensure that personnel have been adequately trained. These recordkeeping requirements are consistent with those proposed to be repealed in subsection 66273.83(d). This subsection is further amended to clarify that the training records for “hazmat employees”, as defined in 49 Code of Federal Regulations section 171.8, involved in handling universal wastes that are hazardous materials shall meet the recording requirements of 49 Code of Federal Regulations section 172.704(d). This amendment is necessary to clarify that additional training recordation standards prescribed by the federal Department of Transportation are also required for those personnel involved in handling such hazardous materials, as applicable.

Subsections (c) and (d) are also necessary to facilitate DTSC and CUPA inspections. Without this requirement, inspectors are unable to verify that the training was provided or when the training was provided.

To accomplish consolidation of the handler standards into this article, it is also necessary to make minor editorial changes to the section.

Amend Section 66273.37, Response to Releases: This section requires that universal waste handlers respond to release immediately, and that any materials or residual be managed appropriately. Amendments are made to this section to accomplish consolidation of the universal waste handler standards into article 3. The existing text expressly limits its applicability to “large quantity handlers of universal waste.” Consequently, to accomplish the consolidation, it is necessary to repeal the reference to “large quantity handlers” throughout this section. Additionally, based on the changes made to section 66273.33 discussed above, to accomplish the consolidation of article 3 it is also necessary to include the additional reference to section 66273.33.5 in **subsection (c)** of this section. Other minor editorial changes are made to this section to improve clarity.

Amend Section 66273.38, Offsite Shipments: This section provides the requirements for offsite shipment of universal waste. Amendments to this section are made to accomplish consolidation of the universal waste handler standards into article 3. The existing text expressly limits its applicability to “large quantity handlers of universal waste.” Consequently, to accomplish the consolidation it is necessary to repeal the reference to “large quantity handlers” throughout this section.

Subsection (d) is amended to clarify that the form of “agreement” that can be used to verify that another universal waste handler or destination facility will receive waste can be in written or verbal communications.

In addition, some minor grammatical and/or editorial amendments are also proposed to correct citations and improve clarity.

Amend Section 66273.39, Tracking Universal Waste Shipments: This section specifies the record keeping requirements for shipments of universal wastes. Amendments are made to this section to accomplish consolidation of the handler standards into article 3. The existing text expressly limits its applicability to “large quantity handlers of universal-waste.” Consequently, to accomplish the consolidation, it is necessary to repeal the reference to “large quantity handlers” throughout this section.

Subsection (b) is amended to allow a universal waste handler who receives universal wastes from households and conditionally exempt small quantity generators of universal waste (CESQG UW) to record itself as “originating universal waste handler”. This amendment is necessary to facilitate recycling opportunities for households and CESQG UWs whom are not required under chapter 23 to provide their source information to a receiving universal waste handler. To require that households and CESQG UWs provided such information would impose a regulatory requirement that may preclude such entities from recycling their universal wastes. This amendment also is necessary to allow universal waste handlers to accurately describe the source of the wastes received from these two entities for recordkeeping requirements mandates under California Code of Regulations, title 14, division 7, chapter 8.2, article 2.0.

Subsection (b) is further amended to allow the universal waste handler to aggregate the quantities received from household and CESQG UWs, thus facilitating accurate inventories for those universal wastes received.

In addition, some minor grammatical and/or editorial amendments are also proposed to improve clarity.

Amend Article 4, Export and Import Requirements, Section 66273.40, Exports: This section establishes the export requirements for universal waste. This section is amended to consolidate all of the export and import requirements into one article for the convenience of the regulated community. DTSC believes consolidating the export and import (see former 66273.70) requirements into one section will make the regulations more “user-friendly.” To accomplish this consolidation, it is necessary to change the title of article 4 of the existing regulations from “Standards for Universal Waste Transporters” to “Export and Import Requirements,” and to add **subsection (e)** to section 66273.40 to identify article 5 as the new location for the transporter requirements currently in article 4 of the existing regulations. Also, as part of this reorganization of regulation text, the title of article 5 is changed from “Standards for Destination Facilities” to “Standards for Universal Waste Transporters”.

This section is amended to consolidate and clarify the requirements for exporting all categories of universal waste. To accomplish this purpose it is necessary to do the following:

- Remove the express reference to “large quantity handlers” throughout this section.
- Repeal the term “consumer electronic devices” and replace it with “electronic devices” in the text to reflect the definitional change proposed for section 66273.9. Where electronic devices are referenced in the text CRTs and CRT glass are also referenced. These additions reflect transfer of the text of the export requirements for these CRTs and CRT glass from existing section 66273.90, which will be repealed as a part of this rulemaking.
- Amend the text to provide a separate set of export requirements for electronic devices, CRTs and CRT glass, and for a separate set of export requirements for other universal waste. This is accomplished by the addition of **subsection (a)(1)**.
- Align the proposed text with the new federal requirements for exports of CRTs for recycling or disposal.
- Align the proposed text with the requirements for exports of covered electronic devices and covered electronic waste in accordance with Public Resources Code section 42476.5 (notification time frames are amended from four (4) weeks under current regulations to 60 days as is required by the Public Resources Code).
- Include the option to submit export notifications via electronic format through DTSC’s web-based reporting interface.
- Other amendments to this section clarify and make specific the format and procedures for persons making the notifications. In addition, minor grammatical and/or editorial amendments are also proposed to improve clarity.

The section is amended to add **subsection (a)(1)** to clarify that exports of universal waste to OECD countries, except for electronic devices, CRTs and CRT glass, are governed by the requirements contained in article 8 of chapter 12. This addition is necessary to place the exclusion from the export requirements contained in this section at the beginning of the section. This addition will aid in locating the appropriate export requirement for persons who are exporting certain universal wastes first in the section, thus eliminating having to read through the remainder of the section to find the appropriate requirements for such export activities.

The introductory language of the section is relabeled **subsection (a)(2)** and is amended to include CRTs and CRT glass as universal wastes to which the requirements of subsection (a)(2) do not apply. Existing subsection (a) is relabeled **subsection (a)(2)(A)**. Existing subsection (b) is relabeled **subsection (a)(2)(B)**. Existing subsection (c) is relabeled **subsection (a)(2)(C)** and amended for grammatical reasons in the placement of the phrase “the EPA Acknowledgment of Consent.”

Existing subsection (d) is relabeled **subsection (a)(3) and (a)(3)(A) through (a)(3)(C)**. **Subsections (a)(3) and (a)(3)(C)** are amended to make the same changes as discussed above related to adding CRTs and CRT glass to the list of universal waste that when, exported, must comply with the applicable provision of this section.

Subsection (a)(3)(C) is further amended to amend the notification timeframe from four (4) weeks to sixty (60) days; this amendment is necessary to conform the export notification requirements with those established pursuant to Public Resources Code section 42476.5 and 40 Code of Federal Regulations section 261.39.

Subsections (a)(3)(A) and (a)(3)(B) are added to require compliance with USEPA notification and EPA Acknowledgment of Consent requirements for export of CRTs that are regulated by USEPA as RCRA hazardous wastes. USEPA requires RCRA-Authorized State Programs to include these USEPA notification and EPA Acknowledgment of Consent requirements, or those set forth in the USEPA's universal waste or hazardous waste export regulations [71 Fed. Reg. 42928 and 42944 (July 28, 2006)].

Subsection (a)(3)(D) is added to place the existing requirement that CUPAs be sent a copy of the export notifications made under this section in its own subparagraph. The amendment is necessary to provide clarity and to provide a separate requirement as opposed to the current construct where this requirement is embedded within a separate requirement [see existing subsection (d) of this section].

Existing subsection (e) is relabeled **subsection (a)(4)** and amended in subsection (a)(4)(A) to include the requirement, as applicable, to include the universal waste handler ID Number in the export notification submitted pursuant to this section. This amendment is necessary to facilitate enforcement of this section by providing DTSC with accurate and current location information for these persons who export. This amendment is also necessary to conform these requirements with those under the federal CRT export notification requirements that state the export notifications for used CRTs include the handler's ID number, if applicable [40 C. F. R. §261.39(a)(5)(i)(A)].

Subsection (a)(4)(B) includes CRTs and CRT glass under the provisions of this section for exports of certain universal wastes. **Subsection (a)(4)(B)4** is added to facilitate enforcement by specifying the export notification include the means of transport for each of the listed universal wastes. This amendment is also necessary to conform these requirements with those under the federal CRT export notification requirements that state the export notifications for used CRTs include the mode of transportation [40 C. F. R. §261.39(a)(5)(i)(E)].

Subsection (a)(4)(B)7 and subsection (b) are added to include the requirement that a person who exports used CRTs for reclamation provide DTSC with copies of the USEPA notification and EPA Acknowledgment of Consent required for exports of CRTs. If the exporter has not complied with these federal requirements, the departmental notification requirements of this section do not apply to the export of the CRTs. Instead,

the more stringent requirements for exports of hazardous waste CRTs contained in article 5 or article 8 of chapter 12 of this division may apply. Consequently, subsections (a)(4)(B)7 and (b) are necessary so that DTSC may identify the applicable state and federal export notification and EPA Acknowledgment of Consent requirements for enforcement purposes.

Subsection (a)(4)(B)8 is necessary to assist DTSC in determining whether used, intact CRTs are exempt from the USEPA notification and EPA Acknowledgment of Consent requirements because they are destined for reuse.

Subsection (a)(4)(B)9 is added to include the requirement that the name and address of the lead smelter or CRT glass furnace to which CRT glass is to be exported be provided. Requirements in chapter 23 state that CRT glass must be recycled at either one of these types of facilities in order to be managed as universal waste pursuant to chapter 23. This requirement is necessary to clarify this limitation for exporters of CRT glass.

Existing subsection (f) is relabeled **subsections (a)(5) and (a)(6)** and amended to clarify the current electronic and written notification criteria.

Subsection (b) is added to require that an exporter forward to DTSC a copy of the EPA Acknowledgment of Consent for exports of used CRTs sent for reclamation. This subsection is necessary so that DTSC can track such exports to ensure that such shipments are made in compliance with the requirements of this section and applicable requirements of the Public Resources Code. The timeframe for submitting this document is 30 calendar days, which provides DTSC with adequate time to allocate resources should an inspection of such activities be necessary.

Subsection (c) is added to require that export information be maintained for three (3) years from the date of shipment for exports. This subsection is added to ensure that documentation is maintained for inspection and enforcement purposes, as well as for consistency with federal CRT export requirements pursuant to Code of Federal Regulations section 261.39(a)(5)(ix).

Subsection (d) is added to clarify that exports of universal waste must also occur pursuant to applicable provisions of the Public Resources Code. The subsection is necessary so that persons who export are made aware of an existing statute that specifically relates to exports of covered electronic wastes, which may contain requirements that are different than the export requirements adopted in the section.

Subsection (e) is added to clearly direct exporters who also act as universal waste transporters that the applicable requirements for universal waste transporters are found in article 5 of chapter 23.

Amend Section 66273.41, Imports: This section establishes the requirement for imports of universal waste. This section is amended to consolidate the requirements for importing universal waste into proposed new article 4 for the convenience of the regulated community. To accomplish the consolidation of MCE requirements contained in existing text it is necessary to repeal **existing subsection (a)** as a part of the consolidation of the MCE sections, and to replace it with the import requirements for universal wastes. In addition, appropriate editorial changes for clarification have been made to this section. As a result of the establishment of this new section, existing section 66273.70 (Import requirements for universal wastes) will be repealed as part of this rulemaking.

Amend Article 5, Standards for Universal Waste Transporters, Section 66273.51, Prohibitions: This section is amended to reflect the definitional changes proposed in section 66273.9.

Subsection (c) is amended to accurately reflect regulatory citation changes made as a part of this rulemaking. To accomplish this purpose it is necessary to make the citation change to repeal the terms “CRT devices” and “CRT materials.”

Subsection (d) is added to facilitate collection of small of electronic devices under the Electronic Waste Recycling Act of 2003. This amendment is necessary to allow handlers to transport no more than 100 kg (or 220 lbs) of electronic devices without containerization, which is equivalent to the five CRTs and CRT device limit prescribed in existing subsection (c).

Amend Sections 66273.52, Waste Management, and 66273.53, Storage Time Limits: Minor grammatical and/or editorial amendments are proposed to these sections.

Amend Section 66273.54, Response to Releases: This section is amended to accurately reflect regulatory citation changes made as a part of this rulemaking. To accomplish this purpose it is necessary to make the citation change shown in **subsection (c)** of this section.

Minor grammatical and/or editorial amendments are also proposed to this section.

Amend Sections 66273.55, Offsite Shipments: Minor grammatical and/or editorial amendments are also proposed to this section.

Amend Section 66273.56, Exports: This section is amended to clarify the existing requirements so that transporters who export universal waste better understand the requirements when exporting to OECD and non-OECD countries. In these amendments, existing regulatory text in subsection (a) has been separated into two subparagraphs: (a)(1) for OECD country exports and (a)(2) for non-OECD country exports. These amendments are consistent with existing export requirement contained

in proposed article 4 as those requirements reference the hazardous waste export requirements contained in section 66262.58. Other than these amendments, this section contains only minor editorial changes.

Amend Article 6, Standards for Destination Facilities, Section 66273.60,

Applicability: The article number is changed from article 5 to article 6 as part of the consolidation of the universal waste handler standards into article 3.

Subsection (a) is amended to include an exception to the requirements of this subsection for facilities that choose to manage universal waste in accordance with the proposed management requirements in subsections (b) or (c). This amendment makes it clear that destination facilities (e.g., permitted hazardous waste facilities) that handle universal waste may conduct certain universal waste management activities, described in subsections (b) and (c) of this section, pursuant to chapter 23 requirements. This change will allow these destination facilities to benefit from commensurate universal waste requirements rather than being required to manage all their universal wastes in accordance with current hazardous waste management requirements.

Subsection (b) is amended to allow certain universal waste management activities for universal waste that are RCRA hazardous wastes to be conducted at destination facilities. These universal waste management activities are: sorting batteries by type, mixing battery types in one container, disassembling batteries or battery packs into individual batteries or cells, removing batteries from consumer products, removing lamps from a product or structure (provided the lamp is removed in such a way to prevent breakage), and managing electronic devices, CRTs or CRT glass in accordance with article 3. These amendments are necessary to allow destination facilities to conduct these specific management activities, which are considered lower risk activities. These management activities are also required to be conducted in accordance with existing requirements and safeguards found in article 3 of this chapter. These proposed changes will facilitate the proper recycling and management of these specific universal wastes at destination facilities without the application of the more stringent hazardous waste management requirements.

Subsection (c) is amended to allow storage pursuant to requirements of chapter 23 (i.e., up to one year pursuant to section 66273.35) for certain universal wastes prior to treatment of those universal wastes (i.e., universal waste that are non-RCRA hazardous wastes). The universal waste treatment activities for which this storage allowance is provided are: removing CRTs from electronic devices that are not CRT devices, disassembling electronic devices that are not CRT devices and/or removing yokes from CRTs, treating electronic devices pursuant to section 66273.73, subsection (a)(1)(A), and treating CRTs. Amendments to this subsection further require that the universal waste handler provide in the facility's permit the location of all storage and accumulation areas for universal waste. Facilities conducting these activities are also required to request a Class 1 modification to their facility permit in accordance with section 66270.42, subsection (d), which allows for permit modifications not listed in existing

regulations (in appendix I of chapter 20). These amendments are necessary to provide certain universal waste handlers with more flexible storage time limits so that treatment activities can be conducted as necessary for economies-of-scale (e.g., larger volumes of universal wastes may be accumulated prior to treatment so that shredding equipment is used more efficiently). These proposed changes will facilitate the proper recycling and management of these specific universal wastes at destination facilities without the application of the more stringent hazardous waste management requirements.

Amend Section 66273.61, Offsite Shipments, and Section 66273.62, Tracking Universal Waste Shipments: No changes are proposed to these sections other than minor grammatical and/or editorial amendments which are necessary for clarity.

Repeal Section 66273.70, Imports: This existing section is repealed to consolidate import requirements to proposed article 4, which is discussed under proposed section 66273.41 amendments, above.

Amend Article 7, Authorization Requirements for Universal Waste Handlers Who Treat Universal Wastes: This article is amended to repeal the regulatory text related to CRT material handler standards and insert proposed standards for authorized treatment of universal waste. Therefore, as part of this rulemaking existing sections 66273.80 through 66273.90 are repealed and replaced by the regulatory text described below.

The establishment of proposed article 7 is to promote the implementation of the Electronic Waste Recycling Act of 2003 by authorizing the application of alternate management standards for the treatment of electronic devices, CRTs, and CRT glass. These proposed treatment standards are authorized by Health and Safety Code section 25214.9 and through a regulatory approach that does not require the application or issuance of a hazardous waste facility permit. The article is also amended to consolidate these proposed electronic waste authorizations with similar authorizations applicable to specific types of MCE under existing regulations.

Add Section 66273.70, Applicability: This section is amended to accomplish the purposes of article 7 because it specifies and consolidates the types of authorized treatment activities and refers readers to the applicable sections within article 7 that specify the conditions required for authorization for each of those treatment activities.

The treatment activities specified in **subsections 66273.70(c)(1), (c)(2)(B), and (c)(3)(A)** are added with the proposed regulation. The other authorized treatment activities consolidated into subsection (c) are relocated from other existing sections of regulation related to treatment of some mercury-containing equipment, universal waste electronic devices, CRT devices, CRTs and CRT glass.

The newly specified authorized treatment activities are necessary to provide a mechanism for a self-implementing authorization for these treatment activities. Absent

the availability of this alternative form of authorization for the treatment activities specified in **subsections 66273.70(c)(1), (c)(2)(B), and (c)(3)(A)**, the full benefits of the Electronic Waste Recycling Act of 2003 such as recycling opportunities would be limited to only those entities that apply for and are granted hazardous waste permits or other grants of authorization issued by DTSC.

Subsection (d) is added to clarify that when a universal waste handler has to treat a universal waste generated as a consequence of responding to a release, that universal waste handler is exempt from the hazardous waste permit requirements contained under chapter 14 through 16, 18, 20 and 22. In this case, the universal waste handler will comply with applicable sections of chapter 12 (hazardous waste generator standards) and chapter 23.

Add Section 66273.71, Authorization for Removal Activities: This section is necessary to accomplish the purposes of article 7 as it creates a self-implementing authorization for universal waste handlers who conduct removal activities pursuant to **subsections (b) and (c)**. This section also establishes the appropriate management standards by which universal waste handler must comply to be allowed to operate under this authorized treatment scheme.

The treatment activities allowed pursuant to **subsections (b) and (c)** involve activities that are typically performed daily in the use of electronic devices (e.g., replacing batteries). While these activities are considered a form of “treatment,” as defined in the Health and Safety Code section 25123.5 for hazardous wastes, when these activities are conducted for universal waste, DTSC believes that these activities do not pose significant hazards to warrant the issuance of a hazardous waste facility permit. Therefore, DTSC proposes to remove the requirement to obtain a hazardous waste facility permit (or other grant of authorization from the department) by creating a self-implementing authorization process for universal waste handlers who perform these activities pursuant to proposed section 66273.71 requirements. This type of self-implementing authorization process was developed as part of the existing emergency regulations and has proved to facilitate the creation of recycling opportunities where none had been available without the issuance of a permit or other grant of authorization.

These proposed amendments and the consolidation of the CRT devices into the electronic device category will now allow, for example, handlers to remove batteries from waste televisions without notifying and obtaining authorization from DTSC [**subsection (a)**]. Absent the “self-implementing authorization” for the treatment activities specified in this section, the State would not realize the full benefits of the Electronic Waste Recycling Act of 2003 by promoting and increasing recycling opportunities for electronic waste.

Subsection (d) had been added to prohibit any disassembly or draining activities, unless those activities are authorized pursuant to section 66273.72. This subsection is

necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (e) is added to prohibit any treatment activities prescribed in section 66273.73 for any residuals resulting from activities conducted pursuant to this section. This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (f) is added to prohibit the transfer of any residual resulting from the activities conducted pursuant to this section to any other onsite person who is not authorized to conduct disassembly or draining activities under section 66273.72, or is a destination facility (e.g., a permitted hazardous waste facility). This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (g) is added to prohibit the transfer of any residual resulting from the activities conducted pursuant to this section to any onsite person who is not authorized to conduct electronic devices or CRT treatment activities under section 66273.73, or is a destination facility (e.g., a permitted hazardous waste facility). This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Add Section 66273.72, Authorization for Disassembling/Draining Activities: This section is necessary to accomplish the purposes of article 7 because it creates a self-implementing authorization for handlers who conduct disassembly and/or draining activities. This section also specifies the appropriate management standards for the different levels of treatment within this category of authorized treatment. In addition, where the text of the proposed regulations required that actions be taken in the event of a release, clarifying language has been added to limit the intent of “release” to releases to the environment under reasonably foreseeable conditions. In such cases, the universal waste handler should plan for changing conditions where universal wastes, or their constituents, can be released to the environment.

Subsection (a) has been added to preclude the use of chemicals or heat (e.g., hot plates) during disassembly/draining treatment activities as these activities are considered hazardous waste treatment activities and not allowed under chapter 23. These activities are considered too risky to be conducted without the safeguards and conditions contained in a hazardous waste facility permit. Facilities that use these forms of treatment are required to obtain such permits, or other grants of authorization from DTSC.

Subsection (a)(2) further prohibits a handler conducting activities pursuant to this section from engaging in any treatment activities prescribed in subsection 66273.73(c) (e.g., shredding, cutting, sawing electronic devices). This amendment is necessary to

limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (a)(3) is added to prohibit the transfer of any residual resulting from the activities conducted pursuant to this section to any other onsite person who is not authorized to conduct disassembly or draining activities under section 66273.72, or is a destination facility (e.g., a permitted hazardous waste facility). This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (a)(4) is added to prohibit the transfer of any residual resulting from the activities conducted pursuant to this section to any onsite person who is not authorized to conduct electronic devices or CRT treatment activities under section 66273.73, or is a destination facility (e.g., a permitted hazardous waste facility). This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.

Subsection (b) is relocated from existing text in section 66273.83(b) for CRT removal requirements. **Subsection (b)(2)** is added to clarify that universal waste handlers who remove CRTs from electronic devices (CRT devices) are exempt from certain notification, reporting and recordkeeping requirements pursuant to section 66273.74. This exemption is currently allowed under existing section 66273.83, subsection (b), which is repealed by this proposed rulemaking. This exemption is allowed only under the condition that the handler manage the CRTs and electronic devices from which they are derived in accordance with this subsection. Handlers who remove CRTs are currently required to notify DTSC and to provide annual reports as universal waste handlers, and will continue to be required to do so under proposed section 66273.32, subsections (c) and (d), respectively. Clarifying language in **subsection (b)(2)(C)** provides that CRTs are to be placed in containers with packaging materials, if those materials are necessary to prevent breakage.

Subsection (c) creates the authorized treatment standards for handlers who dismantle universal waste electronic devices. This subsection is added to allow the disassembly of electronic devices and removal of yokes from CRTs; this language is necessary so that these wastes can be safely disassembled provided the universal waste handler complies with notification, reporting, recordkeeping, and management requirements contained in this subsection. The universal waste handler conducting such activities shall do so in a manner that prevents the release of any universal wastes or their components and that provides containment for any releases or treatment residuals.

The standards for this category of authorized treatment are necessary to ensure that the treatment is performed safely by these handlers, without the hazardous waste facility permits they would otherwise obtain. In establishment of this form of authorization, DTSC believes that a full or standardized hazardous waste facility permit is not commensurate with the hazards posed by removing components from electronic

devices. This alternative form of authorization is needed to realize the full benefits of the Electronic Waste Recycling Act of 2003 in that it offers incentives for this form of treatment without the regulatory burdens of obtaining permits. The authorized treatment standards established in this section are necessary to maintain an appropriate level of regulation over the authorized treatment activities as follows:

- Notification, reporting and recordkeeping – These requirements are necessary so that DTSC can identify and inspect the handlers who conduct certain treatment activities pursuant to this section.
- Ensuring scrap metal is recycled - This requirement will ensure that the handler maintains compliance with section 66261.6, subsection (a)(3)(B) and Title 40 Code of Federal Regulations section 261.6(a)(3)(ii).
- Containment and Packaging – These requirements are necessary to prevent dismantling facilities (onsite locations) from becoming contaminated, thereby protecting taxpayers from having to fund potential cleanups of contaminated recycling facilities.
- Response to Releases – These requirements are necessary to ensure that residuals or universal waste is appropriately classified and cleaned-up to prevent releases to the environment (i.e., soil, air, water).
- Worker Safety and Training – This requirement is necessary to ensure that workers are thoroughly familiar with the proper procedures and protective equipment when conducting treatment activities pursuant to this section.

Subsections (d) and (e) relocate the draining and removal provisions previously contained in the various mercury-containing universal waste subsections. These existing sections are: section 66273.33, subsection (b)(2) for removing ampules from thermostats; section 66273.33, subsection (e)(3) for removing switches; and section 66273.33, subsection (g)(3) for draining liquid mercury from gauges. These relocations of regulatory text to subsections (d) and (e) do not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the current regulations. In addition, **subsection (d)(2)** is added to clarify that universal waste handlers who conduct activities described in this subsection are exempt from the notification, reporting and recordkeeping requirements of proposed section 66273.74, subsection (a) through (c)(1). Currently, universal waste handlers who conduct mercury ampule and switch removal are not required to comply with most of these requirements; however, universal waste handlers who remove mercury switches are required to comply with existing recordkeeping requirements of section 66273.33, subsection (e)(3)(A) [relocated in these proposed regulations to section 66273.74, subsection (c)(2)].

Add Section 66273.73, Authorization for Treatment (Processing) Activities: This section is necessary to accomplish the purposes of proposed article 7 as it establishes “self-implementing authorization” for handlers who conduct the types of authorized treatment described in this section. The CRT treatment activities described in **subsection (b)** are relocated from existing section 66273.83. This relocation does not

materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the current regulations.

Subsection (a) will create the authorized treatment standards for handlers who treat universal waste electronic devices. Two categories of electronic device treatment are delineated. The first category of treatment [**subsection (a)(1)**] produces residuals that are classified as scrap metal and/or universal wastes that are otherwise exempted from regulations as hazardous waste. The second category of treatment [**subsection (a)(2)**] produces residuals that are regulated as hazardous wastes.

Subsection (c) further describes the treatment methods allowed that primarily change the physical properties of the waste (e.g., breaking, shredding, crushing or compacting) and that separate processed material by its physical properties (e.g., size, color, density). These physical treatment methods pose lower hazards than do treatment methods that utilize the addition of chemicals or heat (e.g., smelting metals). The exclusion of self-implementing authorization for treatment activities that utilize chemicals or the application of certain types of external heat is necessary to distinguish those treatment activities that handlers can perform with lower risks (as authorized treatment under the universal waste regulations) from those treatment activities that handlers cannot perform without a hazardous waste permit because of higher risks (i.e., are subject to the full hazardous waste regulations under chapters 10 through 22).

This distinction in treatment activities allowed without a permit under this article is necessary to clarify and ensure that treatment activities which may pose significant hazards may not be authorized under the proposed authorized treatment regulations.

This section also specifies the appropriate management standards for the different levels of treatment. The standards for treatment (i.e., self-implementing authorized treatment) are necessary to ensure that treatment is performed safely by handlers who do not possess the hazardous waste facility permits they would otherwise be required to obtain. DTSC establishes this form of self-implementing authorization because a full or standardized hazardous waste facility permit is not commensurate with the hazards posed by treating the universal waste allowed pursuant to the standards specified in this section.

This alternative form of self-implementing authorization is needed to realize the full benefits of the Electronic Waste Recycling Act of 2003 because it allows certain treatment activities to be conducted without the issuance of a permit or other grant of authorization. The authorized treatment standards are necessary to maintain an appropriate level of regulation over the authorized treatment activities as follows:

Subsection (a)(1)(C)

- Notification reporting and recordkeeping – These requirements are necessary so that DTSC can identify and inspect these handlers. See also Notification and reporting standards described in section 66273.74, see below.

- Treatment Standards described in section 66273.75, see below.

Subsection (a)(2)(C)

- Notification reporting and recordkeeping - This is needed so DSTC can identify and inspect these handlers. See also section 66273.74, see below.
- Closure Plan and Financial Responsibility requirements described in section 66273.76, see below.
- Treatment Standards described in section 66273.75, see below.
- Facility Closure requirements in section 66273.77, see below.

Subsection (b) is added to establish the requirements for universal waste handlers who treat CRTs by breaking glass or by other means other than disassembly/draining activities. This subsection is necessary in that it establishes the additional requirements that these handlers must comply with (notification, annual reports, recordkeeping, closure plan, financial responsibility/assurance, and facility closure) so that operations at these facilities are conducted in safe manner which is protective of workers and the environment.

Subsection (c) is added to clarify the treatment activities that are allowed pursuant to this section. The treatment activities allowed include changes to the physical properties of the electronic device, physical separation based on physical properties of electronic devices and components, and the use of a pinpoint torch or hot wire to “check” the CRTs for glass separation. This subsection further limits the treatment activities to preclude the use of chemicals (including water) except for coolant recirculated in CRT cutting machines, and the use of certain forms of external heat.

Subsection (c)(1)(D) has been added to allow for the thermal assay of samples of shredded circuit boards, and establishes limits on the size of the sample size, on the total quantities that may be assayed in a 24 hour period, and on the aggregate amounts assayed based on the quantity of treatment residuals. The sample size is limited to 250 kilograms (kg) because this sample size is consistent with existing hazardous waste regulations regarding treatability study sample size as described in section 66261.4. This size is estimated to be about the volume of a single 55-gallon container, which DTSC believes can be managed in this manner with low risk.

Subsection (c)(2)(B) has been added to prohibit any further onsite treatment activities for any residuals resulting from activities conducted pursuant to subsections (a)(1) or (a)(2) of this section. This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment (i.e., destination facilities or other reclamation facilities).

Add Section 66273.74, Notification, Annual Reporting, and Recordkeeping: This new section is necessary to accomplish the purposes of proposed article 7 as it describes the notification and reporting requirements necessary to perform authorized

treatment without a hazardous waste facility permit, or other grant of authorization from DTSC.

Specifically, **subsections (a) and (b)** establish pre-operation notification and subsequent annual reports for handlers of universal waste who perform authorized treatment under this article. This information is necessary for DTSC to identify and inspect these handlers to ensure compliance. This information is also necessary for State administrative purposes, such as estimating the size of the statewide electronics waste stream, evaluating of mass balances to ensure that all treatment residuals are appropriately managed (e.g., exempt materials such as scrap metals), determining DTSC's future inspection workload, and evaluating the effectiveness of the SB 50 program (reimbursement program).

The recordkeeping requirements in **subsection (c)** are necessary to ensure that the required information is present onsite at all times, thereby allowing DTSC staff to perform unannounced inspections of the handlers' facilities. The amendment is also necessary to provide adequate guidance to handlers regarding signing and submitting reports to DTSC pursuant to **subsection (d)**. This guidance will ensure consistency of reports and reporting mechanisms for different types of handlers.

This amendment does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the current regulations, except for handlers of universal waste electronic devices. The analogous existing requirements for handlers of other universal wastes are merely relocated here from other sections of the current regulations. These existing sections are: section 66273.83, subsection (c)(1)(A) for notification requirements for CRT material handlers who treat CRTs; section 66273.82, subsection (c)(6) for annual reporting requirements for CRT material handlers who treat CRTs; section 66273.83, subsection (c)(5) for recordkeeping requirements for CRT material handlers; section 66273.33, subsection (e)(3)(A) for recordkeeping requirements for universal waste handlers who remove mercury switches from vehicles and/or household appliances; and section 66273.83, subsection (c)(1)(B) for certification requirements for notifications and annual reports submitted by CRT material handlers.

Subsection (e) is added to allow for the electronic submittal of notifications and annual reports made pursuant to this section. This requirement is necessary to allow handlers the option of reporting through DTSC's web-based interface.

Add Section 66273.75, Treatment (Processing) Standards: This section is necessary to accomplish the purposes of proposed article 7 as it establishes requirements for handlers who treat electronic devices (i.e., previously referred to as "processors"). In addition, where the text of the proposed regulations required that actions be taken in the event of a release, clarifying language has been added to limit the intent of "release" to releases to the environment under reasonably foreseeable conditions. In such cases, the universal waste handler should plan for changing

conditions where universal wastes, or their constituents, can be released to the environment.

Subsection (a) expressly limits the types of treatment, as discussed above, to ensure that only the lower hazard types of treatment are performed under the proposed regulations by handlers who treat. The requirement in **subsection (a)(2)** to ensure materials containing fluids (e.g., mercury vapor lamps) are not treated is necessary to prevent the release of highly mobile contaminants to the surrounding environment and to protect the workers at the facility.

Subsection (a) further requires that treatment facilities comply with the hazardous waste facility location, seismic, design, precipitation and zoning standards of chapter 15 (requirements for interim status facilities). Therefore, the proposed regulations will ensure that the universal waste treatment facilities will be properly designed and located, and these facilities will withstand earthquakes or extreme precipitation. In addition, compliance with the chapter 15 standards is necessary to ensure that the universal waste handlers who conduct treatment activities will locate their facilities consistent with local land use requirements.

Similarly in **subsection (b)**, the requirement for containment is necessary to prevent the release of hazardous materials and wastes to the environment. The requirements of **subsections (b) and (c)** to classify, contain and properly manage residuals generated from the treatment of electronic devices are needed to clarify that these materials may be hazardous wastes and not universal wastes, and therefore, must be managed under the applicable requirements of chapters 10 through 22 of the regulations.

Subsection (d) requires compliance with worker health and safety laws and is necessary to protect human health and the environment. The additional training required by this section will ensure workers who process universal wastes are aware of the hazards associated with each treatment activity, and these workers will know how to adequately protect themselves. In addition, provisions of Public Resources Code section 42479 require that recycling facilities that participate in the SB 20/SB 50 reimbursement programs be in compliance with applicable health and safety requirements.

Subsection (e) establishes the requirement that treatment facilities comply with local zoning and land use standards. This regulation is necessary to ensure the treatment activities are conducted in certain areas within local communities throughout the State. This is necessary to accommodate the many universal waste handlers, unlike hazardous waste facilities, that may be located in an area of any type of zoning (e.g., non-commercial or industrial). By requiring handlers who treat electronic devices who do so primarily for purposes of recycling, and who do not treat electronic devices for the purpose of hazardous waste treatment and disposal (i.e., by prohibiting these handlers from accepting hazardous wastes), the proposed regulation will complement and

implement the Electronic Waste Recycling Act of 2003 in promoting recycling opportunities.

Add Section 66273.76, Closure Plan and Financial Requirements: This section is necessary to accomplish the purposes of proposed article 7 as it establishes the requirement that handlers who treat universal waste electronic devices pursuant to subsection 66273.73(a)(2) and (b) (i.e., those handlers who treat electronic devices and treat CRTs by breaking glass) prepare and submit (to DTSC) a closure plan and a closure cost estimate. This section also requires that these handlers maintain a financial assurance mechanism for closure. In addition, these handlers must also maintain liability coverage.

This section imposes new standards on handlers who treat universal waste electronic devices (pursuant the current emergency regulations) and on handlers who process CRTs by breaking the CRTs' glass (as is provided in existing section 66273.83). The closure plan and closure cost estimate are necessary to ensure that handlers who perform these types of treatment fully evaluate the consequences of the activity and prepare and budget in advance of closure for decontamination of equipment and the facility.

Subsection (a)(1) is necessary to specify the elements of the closure plan. In addition, the closure plan shall be developed to reflect when the extent of operations is at the facilities' maximum capacity. This will ensure that cost estimates for closure include the cost to cleanup the facility when all the treatment units and associated areas are in full use, and when the maximum inventory is managed. To develop closure estimates in this way ensures that the full amount for cleanup is included in the financial responsibility and assurance mechanisms used for these facilities. Also, to develop closure cost estimates to reflect the most expensive closure scenarios provides sufficient funding should the universal waste handler not be able to complete closure and when a third party may have to be used to complete closure.

Subsection (a)(2) is necessary to ensure that handlers revise the closure plans when needed. The criteria for determining when a "change" is necessary to the closure plan has been established to include any increases in facility capacity of greater than ten (10) percent. A change in facility capacity of less than the ten (10) percent is a reasonable amount of inventory fluctuation that may occur on a routine basis at any given treatment facility.

Subsection (a)(3) is necessary to facilitate unannounced inspections of the facilities by DTSC inspectors. If the closure plans were not maintained onsite, DTSC inspectors would be unable to determine compliance status with subparagraph (a)(1). The emergency regulations currently do not require handlers to submit the closure plans to DTSC. Therefore, under the emergency regulations currently adopted, DTSC is unable to evaluate whether the cost estimates for closure are reasonable and realistic.

Subsection (a)(4) is necessary to allow DTSC to determine whether the handlers who became authorized under these proposed regulations based their financial assurance mechanisms upon reasonable cost estimates, and are, therefore, maintaining adequate financial means to conduct an adequate facility closure.

Subsection (b) is necessary to provide handlers guidance for preparing closure cost estimates [and developed in alignment with the closure plan developed under subparagraph (a)(1)]. Although these standards are referenced in the emergency regulations currently adopted for handlers who treat universal waste electronic devices and for handlers who treat CRTs, in the proposed regulations DTSC has repealed the references to the chapter 15 requirements.¹⁶ Instead, these proposed regulations include only those standards applicable to the electronic waste recyclers in article 7. Clearly listing these standards where electronic waste handlers who treat (e.g., recycle) can readily locate the standards is necessary to facilitate implementation and compliance.

Subsection (d), the financial assurance mechanism, is necessary to ensure that these handlers maintain the financial means to properly conduct closure activities at the facility. Together with the financial responsibility for liability requirement [in **subsection (c)**] this section will ensure that universal waste handlers who process universal waste electronic devices under this new “self-implementing” authorization scheme will remain sufficiently financially solvent to properly close their facilities.

Subsection (e), in conjunction with subparagraphs (a)(1) and (a)(4), will ensure that handlers submit accurate and realistic closure plans and cost estimates to DTSC. This subsection is necessary to facilitate enforcement under Health and Safety Code section 25189.

Subsection (f) is necessary to ensure that any documents that handlers submit pursuant to this section arrive at the proper location within DTSC. In combination, the requirements of this section are necessary to ensure that the State does not have to pay the costs associated with closing and cleaning up these handlers' facilities should closure not be adequately planned for and funded by these handlers.

Add Section 66273.77, Closure of Universal Waste Treatment Facilities: This section is necessary to accomplish the purposes of proposed article 7 as it establishes the requirement that handlers of universal waste electronic devices who perform authorized treatment (beyond disassembly and dismantling) notify DTSC when their activities cease. This section also specifies the contents of these notifications.

These notifications are necessary to provide DTSC with accurate information on the operational status (i.e., active or inactive) of the entities that treat (or recycle) universal

¹⁶ “Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities”

waste electronic devices. This information will be used to track the operations of the universal waste handlers who treat for enforcement purposes under the Electronic Waste Recycling Act of 2003. The closure notice is also necessary so that DTSC may release the handler's financial assurance mechanism when it is no longer necessary, and so that DTSC may perform an inspection to ensure that proper closure activities were performed adequately.

Subsection (a)(2) includes a provision to require that closure notification be submitted to DTSC 30 calendar days prior any of the dates specified in subsection (a)(1): the last date treatment is conducted; the last date that handling occurs; or the date then handler completes closure. This 30 calendar day time period is necessary to provide sufficient time for DTSC to evaluate the time and staff needed to conduct any facility inspections necessary prior to the closure date.

Subsection (b)(1) provides that DTSC notify the handler within 60 calendar days after DTSC conducts the activities described in this subsection in order to inform the handler whether they are required to continue to maintain financial assurance for closure. This timeframe is necessary to allow DTSC to conduct the oversight activities prescribed in this section (e.g., evaluate whether closure is complete through a facility inspection or through the evaluation of facility sampling data), and to provide the handler with sufficient information should DTSC determine that closure is not complete and as described in subsection (b)(2) of this section.

Repeal Article 7, Standards for CRT Material Handlers, Sections 66273.80 through 66273.90: These sections are repealed to consolidate the current standards for CRT material handlers contained in existing article 7 into the **new articles 3 and 7**. The relocation of these standards does not materially change the current CRT material standards. However, application of the amended closure requirements (proposed sections 66273.76 and 66273.77) to handlers who treat CRTs is a new requirement (see proposed sections 66273.76 and 66273.77, above). The revised closure standards are necessary to ensure that universal waste handlers who treat properly prepare for facility closure in advance, and properly close their facilities. This will ensure that the State does not have to pay for costly cleanup at facilities which do not maintain a financial means to cover the costs of closure should closure not be adequately planned for and funded by these handlers.

The consolidation of these sections into the proposed text of chapter 23 is necessary to provide a single set of standards for all members of the regulated community who handle universal wastes (see proposed article 3, above). A single set of standards is necessary to eliminate confusion (i.e., removes the question of "which set of standards does one follow?") as well as eliminate duplicative regulations.

Amend the following Section to Chapter 31. Waste Minimization

Amend Section 67100.2, Applicability: Health and Safety Code section 25244.15(c) directs DTSC to adopt regulations to implement source reduction planning and reporting requirements. Subdivisions (d)(1), (d)(2), and (d)(3) of this code section discusses applicability and establishes exemptions from the source reduction planning requirements. The department has adopted section 67100.2 (c) of this division to specify hazardous waste streams which are not subject to the source reduction planning requirements of Health and Safety Code, article 11.9.

Section 66261.9 specifies requirements for universal waste. This section states that universal wastes are exempted from the management requirements of Health and Safety Code, division 20, chapter 6.5 and implementing regulations except as specified in chapter 23.

The proposed amendments to **subsection (c)(1)(J)** make an explicit statement that universal wastes are exempt from source reduction planning requirements. This amendment clarifies the existing regulations contained in the exemption language of section 66261.9, and it does not modify or create any new requirements for source reduction.