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MEMORANDUM

**TO: Office of Administrative Law
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**FROM: Diana M. Vazquez Ballesteros, Legislative Director
Office of Legislation and Regulatory Review**

DATE: June 2, 2022

**SUBJECT: Electronic Manifesting (DTSC Reference Number R-(2022-01N) – For
Approval of Non-substantive Rulemaking**

The Department of Toxic Substances Control (DTSC) requests approval of this non-substantive rulemaking to California Code of Regulations title 22, division 4.5,¹ which would adopt regulatory changes to achieve consistency with recently enacted federal Resource Conservation and Recovery Act (RCRA) amendments and maintain authorization for California's Hazardous Waste Control Program. The proposed revisions parallel federal regulations from the Hazardous Waste Electronic Manifest rules adopted on January 3, 2018, by the United States Environmental Protection Agency (U.S. EPA) and incorporated into 40 Code of Federal Regulations, parts 260, 262, 263, 264, 265, and 271.² DTSC seeks to make the following changes:

- Adopt new federal language required by U.S. EPA;
- Modify existing language to conform to federal language;

¹ For the purposes of this memorandum, all regulatory references are to California Code of Regulations, title 22, division 4.5, unless otherwise specified.

² 79 FR 7518-7563, February 7, 2014, 81 FR 85696, November 28, 2016 and 83 FR 420-462, January 3, 2018.

- Where practical, restructure the wording in state requirements to conform with federal language while maintaining compliance with existing state requirements that are more stringent; and
- Remove obsolete language and provisions for consistency with added or amended federal requirements.

Background

The Resource Conservation and Recovery Act (RCRA), 42 United States Code section 6901 et seq., is a federal law governing the handling and disposal of solid waste and hazardous waste. U.S. EPA is authorized by Congress to implement RCRA. However, U.S. EPA may delegate authority to implement RCRA to states provided that the state maintains a regulatory scheme that is equivalent to, or more stringent than, the standards enumerated in federal law. U.S. EPA has delegated authority to California to implement RCRA, and DTSC is charged with administering California's RCRA authorization. In many respects, California's regulatory scheme is more stringent than the standards enumerated in RCRA.

On June 30, 2018, the Hazardous Waste Electronic Manifest Establishment Act, (the Act or the e-Manifest Act) became federally operational and was adopted by U.S. EPA under the authority of RCRA, 42 United States Code section 6921 et. seq. The Act was published in Federal Register, Volume 83, No. 2. Subtitle C of the Solid Waste Disposal Act and was amended by adding section 3024, "Hazardous Waste Electronic Manifest System." The Uniform Hazardous Waste Manifest is the shipping document that travels with hazardous waste from the point of generation, through transportation, to the final treatment, storage, and disposal facility. U.S. EPA created the Act to reduce paperwork for the regulated community and to create a central hub for hazardous waste manifest data for the tracking of hazardous waste from "cradle to grave" by electronic rather than paper means on a phased basis. Because California is an authorized state under RCRA, it must maintain this authorization by adopting regulations to be consistent with federal laws and regulations.

The e-Manifest Act mandates that all federal requirements promulgated under e-Manifest Act authority be given consistent effect in all states on the requirement's effective date. Existing state law requirements that are inconsistent with the federal revisions promulgated under the e-Manifest Act were superseded as of June 30, 2018. The e-Manifest process only applies to the collection of domestic hazardous waste manifests and domestic shipments of state-only regulated waste subject under state law to the RCRA hazardous waste manifest.

Assembly Bill 1597, Statutes of 2019, Chapter 133 (AB 1597) became effective on January 1, 2020. This bill made the changes needed to allow hazardous waste shipments to be tracked using the U.S. EPA electronic manifest system (e-Manifest

System). This bill aligned state law with federal law by allowing waste handlers in California who are required to use a hazardous waste manifest to ship that waste and meet federal requirements by using the e-Manifest System developed by U.S. EPA. Waste handlers include those entities shown on the hazardous waste manifest: generators, transporters, and transfer, treatment, storage, and disposal facilities. AB 1597 constituted DTSC's initial action for receiving authorization from U.S. EPA to enforce manifesting requirements now limited to the jurisdiction of the U.S. EPA. The requirements included in this rulemaking proposal make additional changes within the California Code of Regulations, title 22, division 4.5 for consistency with federal e-Manifest requirements. The changes in this proposed rulemaking include changes made for special circumstances that may arise during transportation, federal manifest fees, manifest corrections procedures, the modification of existing provisions, and the elimination of obsolete provisions.

U.S. EPA cites the following among the e-Manifest System benefits: (1) improved access to higher quality and more timely waste shipment data; (2) nearly real-time shipment tracking capabilities for users; (3) enhanced manifest inspection and enforcement capabilities for regulators; (4) more rapid notification and responses to problems or discrepancies encountered with shipments or deliveries; (5) greater access for emergency responders about the types and sources of hazardous waste that are in movement between generator sites and waste management facilities; (6) one-stop manifest copy submission to U.S. EPA and to all interested states through the Exchange Network architecture; (7) greater transparency for the public about completed hazardous waste shipments to or from their communities; and (8) new data management possibilities that could ultimately simplify the RCRA biennial reporting requirements and consolidate various federal and state reporting requirements for domestic shipments. U.S. EPA expects that when fully operational, electronic reporting will ease the reporting burden.

U.S. EPA identified the specific changes that must be adopted by authorized states in order to maintain RCRA authorization in the "Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules Revised May 7, 2019." This document, issued by U.S. EPA, lists section by section the changes that authorized states must make to conform to the updated e-Manifest program. This document also emphasizes the requirement for program consistency and the mandate that ". . . all federal requirements promulgated under e-Manifest Act authority be given consistent effect in all states on the requirements' effective date, existing state law requirements that are

inconsistent with the federal revisions promulgated under the e-Manifest Act are superseded on these regulations' effective date of June 30, 2018.”³

An overview of the federal and state hazardous waste manifest programs is provided below.

The federal and state hazardous waste management programs establish management standards for waste handlers. These standards include manifesting of hazardous waste destined for disposal at an authorized facility. For the purposes of this rulemaking, the following definitions from California Code of Regulations, title 22, section 66260.10 are useful for understanding the proposed regulations in context:

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. . . .”

“Generator” or “Producer” means any person, by site, whose act or process produces hazardous waste identified or listed in chapter 11 of this division or whose act first causes a hazardous waste to become subject to regulation.

“Operator” means the person responsible for the overall operation of a facility.

“Owner” means the person who owns a facility or part of a facility.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under chapter 6.5 commencing with section 25100, division 20, Health and Safety Code.

“Person” means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership and association. “Person” also includes any city, county, district, commission, the State or any department, agency or political subdivision thereof, any interstate body, and the Federal Government or any department or agency thereof to the extent permitted by law.

“Storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

“Transfer facility” or “transfer station” means any transportation related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held and/or transferred during the normal course of transportation.

³ U.S. EPA, “Special Consolidated Checklist For the Hazardous Waste Electronic Manifest Rules Revised February 1, 2019 (40 C.F.R. 260.2) Revised May 7, 2019 (40 CFR 263.20(a)(2))

“Transporter” means a person engaged in the offsite transportation of hazardous waste by air, rail, highway or water.

“Treatment” means any method, technique, or process which changes or is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or removes or reduces its harmful properties or characteristics for any purpose including, but not limited to, energy recovery, material recovery or reduction in volume.

Under state and federal requirements, waste handlers must use a Uniform Hazardous Waste Manifest to legally transport hazardous waste within California and across state boundaries and outside the United States. California has established a hazardous waste management program that is more stringent than the federal RCRA standards for certain wastes that U.S. EPA does not define or regulate as hazardous wastes, and California has chosen to regulate as (non-RCRA) hazardous waste. This results in wastes generated in California that are required to be manifested by the state also being subject to RCRA e-Manifest procedures. The RCRA requirements for e-Manifest procedures consider that some states regulate wastes that RCRA does not recognize as hazardous and has designed the e-Manifest regulations to accommodate this difference. In other words, RCRA takes the stricter rules of some states into account by making any waste for which a manifest is required under state law subject to e-Manifest procedures.

1.0 Non-Substantive Changes/Changes Without Regulatory Effect Determination

Health and Safety Code section 25159 requires DTSC to revise its regulations as necessary to maintain authorization to administer a state hazardous waste program in lieu of the federal program. Health and Safety Code section 25159.1 requires the Office of Administrative Law (OAL) to deem such changes as without regulatory effect for the purposes of California Code of Regulations, title 1, section 100(a)(6), provided that the state regulations are not more stringent or broader in scope than the corresponding federal regulations. The proposed regulatory changes in this rulemaking are required pursuant to Health and Safety Code section 25159 and are not more stringent or broader in scope than the federal regulations. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159. We have also made changes that meet the criteria of California Code of Regulations, title 1, section 100(a)(6) because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

1.1 Mandatory provisions pursuant to Health and Safety Code section 25159

As stated, the proposed regulations will adopt revisions and new provisions that are more stringent than existing state requirements. These changes are identified as mandatory because DTSC is required under Health and Safety Code section 25159 to adopt these changes in order to maintain authorization to implement the state hazardous waste program in lieu of the federal program. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159 and California Code of Regulations, title 1, section 100(a)(6). To assist states in identifying mandatory provisions in the Federal Register, U.S. EPA categorized revisions in the e-Manifest regulations as mandatory to maintain authorization as follows:

- Requirements that place hazardous waste facilities on notice of federal e-Manifest user fees;
- Manifest procedures regarding data quality, including changes to designated transporters during transportation and manifest signatures;
- The process for manifest data corrections;
- Circumstances under which U.S. EPA will allow a “hybrid” or mixed paper/electronic manifest to be used to track a specific waste shipment;
- Informing waste handlers that a final manifest is a public record and that a claim of business confidentiality cannot be made;
- Removing the appendix to 40 Code of Federal Regulations Part 262 (Uniform Hazardous Waste Manifest and Continuation Sheet, EPA Forms 8700-22 and EPA Form 8700-22A) due to the forms’ new location on the RCRA website. This requires that the appendix to chapter 12 of title 22 division 4.5 and references to the Uniform Hazardous Waste Manifest and Continuation Sheet, EPA Forms 8700-22 and EPA Form 8700-22A, as an appendix to chapter 12 of title 22 division 4.5 be removed. Only reference to the form title is now made; and
- Informing waste handlers that any final paper or electronic manifest completed and submitted in accordance with federal regulations is available to the public 90 days after delivery of the waste shipment to the facility identified in the manifest.

Because many of these requirements do not exist within state requirements, they would be considered more stringent than current state requirements. However, as noted previously, some requirements in this rulemaking are identical to, or similar to, existing state statutory requirements and are repeated within specific regulatory sections to maintain continuity or context within the overall discussion of a particular federal requirement within title 22, division 4.5. Detailed, specific requirements that fall into these categories are provided within the explanation for each requirement listed in section 6 below, “Regulatory Sections Affected.”

2.0 Adjustment to Current Regulatory Structure to Include New RCRA Requirements

This rulemaking will adopt the equivalent corresponding RCRA regulations to include new requirements in a similar numbering or structuring pattern within title 22, division 4.5 where possible. In some instances, however, the existing state regulatory structure does not mirror the exact RCRA structure and does not easily accommodate a numbering pattern similar to the RCRA structure. In those cases, the numbering system of the existing regulation has been renumbered or re-lettered to include the new requirements that are pertinent to and must be contained within a specific title 22 section. Pursuant to Health and Safety Code section 25159.1 these changes are without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, sections 100(a)(1) and 100(a)(4). Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

3.0 Minor Textual Changes for Consistency with Required RCRA Changes

Some minor textual changes are needed in order to achieve consistency with the RCRA revisions. As mentioned above, because U.S. EPA has eliminated the hazardous waste manifest as an appendix and requires that states do so within sections specified in the RCRA Special Consolidated Checklist, additional sections within title 22, division 4.5 that reference the manifest as an appendix must also be modified for consistency. The Hazardous Waste Manifest EPA Form 8700-22 and EPA Form 8700-22A are now available on the U.S. EPA's website where they are published and available to users. These changes are without regulatory effect pursuant to Health and Safety Code section 25159.1 and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4). Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

4.0 Generic Reference/Citation and Other Minor Textual Changes and Conformity with the California Style Manual

In some instances, adoption of the regulations will result in changes to acronyms or words used in the analogous RCRA regulations. These changes are necessary to

make these rules consistent within the title 22, division 4.5. In addition, differences in the use of punctuation marks and capitalization occur throughout this rulemaking. Where specifically indicated within the regulatory language, a section, acronym, and words are generally changed as follows:

Federal Formats– 40 CFR	State Format– Title 22
40 CFR or RCRA	40 Code of Federal Regulations
40 CFR part or section, for example, 40 CFR 262.25	For new sections added to title 22, division 4.5: “66” added before analogous part or section, for example, California Code of Regulations, title 22, section 66262.25
§ or §§	“section,” “sections,” “subsection,” or “subsections”
EPA	U.S. EPA (except in reference to the Uniform Hazardous Waste Manifest form number: EPA Form 8700-22 and EPA Form 8700-22A)
“must”	“shall”
“these regulations”	California Code of Regulations, title 22, division 4.5

Throughout existing state and federal regulations, some acronyms and citations are inconsistent and do not conform to the California Style Manual. Within affected regulatory sections, the non-conforming format has generally been changed, and such changes are not individually noted as follows:

Previous Formats	Updated Format for California Style Manual Consistency
CFR	Code of Federal Regulations
CFR Section	Code of Federal Regulations section
US EPA, USEPA, EPA	U.S. EPA

The above changes are without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4) and Health and Safety Code section 25159.1. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

5.0 Summary Discussion of Changes and Applicability of Section 100

This proposed rulemaking does not add a new law. As mentioned, the proposed regulations will result in additional e-Manifest System fee and procedural requirements to specify actions that must be taken on the part of the generator, transporter, or treatment, storage or disposal facility to correctly carry out e-Manifest requirements. These regulations also make non-substantive organizational changes to accommodate the specific procedural requirements within affected sections or as an addition to the affected articles pertaining to waste handling. As previously mentioned, because some current state requirements are structured somewhat differently than the RCRA

hazardous waste regulations, additional sections and subsections have been added or renumbered or re-lettered. In other instances, where a requirement is similar to or the same as existing state statutes regarding a topical area, the regulatory language mirrors the statutory language in order to maintain consistency. Again, these changes meet the criteria for California Code of Regulations, title 1, sections 100(a)(1), 100(a)(4), or section 100(a)(6) approval pursuant to Health and Safety Code section 25159.1 because they do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. To emphasize, the proposed added or amended requirements are identified as mandatory because DTSC is required under Health and Safety Code section 25159 to adopt them in order to maintain authorization to implement the state hazardous waste program in lieu of the federal program, and DTSC has no discretion to adopt a change which differs in substance from those chosen.

6.0 Regulatory Sections Affected

DTSC proposes to amend or add the following sections to, title 22, division 4.5 related to e-Manifest requirements as described, which are necessary for the reasons stated below. The proposed changes appear in the following order: amendments to incorporate changes, removal of the Appendix to chapter 12, sections that require amendment due to mention of the Appendix to chapter 12, and new sections to be added.

6.1 Amend Section 66260.2 Availability of Information; Confidentiality of Information

Under the Act, states are required to adopt the language of 40 Code of Federal Regulations sections 260.2(c)(1) and 260.2(c)(2). The proposed amendment adds sections 66260.2(c)(1) and 66260.2(c)(2). The reference to U.S. EPA must be maintained in the rule text for RCRA authorization. Reordering of the existing sections 66260.2(b) and (c) is necessary in order to change the current section 66260.2(c) to section 66260.2(b)(1), add the exception for and reference to the new 66260.2(c) within provision 66260.2(b), and to maintain a parallel structure with the federal regulations as detailed below.

Section 66260.2(b): This section is being amended to add the language, "Except as provided in subsection (c)" in order to reference the new manifest confidentiality provisions in 66260.2(c)(1) and 66260.2(c)(2). This section is also being amended to delete obsolete references to section 66262.53. Section 66262.53 was repealed under Health and Safety Code section 25159.1 as a change without regulatory effect on August 20, 2018, Register 2018, No. 34.

Section 66260.2(b)(1): This section is also being amended to renumber the current section 66260.2(c) to (b)(1) in order to add the new sections 66260.2(c)(1) and 66260.2(c)(2). This section is also being amended to delete the obsolete references to repealed section 66262.53.

Section 66260.2(c)(1): This section is added and specifies that after August 6, 2014, no claim of business confidentiality may be made for information entered on a paper or electronic Hazardous Waste Manifest or continuation sheet used in accordance with federal regulations.

Section 66260.2(c)(2): This section is added and specifies that any final paper or electronic manifest completed and submitted in accordance with federal regulations is available to the public 90 days after delivery of the waste shipment to the facility identified in the manifest. This provision informs waste handlers that a final manifest is a public record, that a claim of business confidentiality cannot be made, and that any final paper or electronic manifest completed and submitted in accordance with federal regulations is available to the public 90 days after delivery of the waste shipment to the facility identified in the manifest. This way, waste handlers will know the cutoff for making any final changes to the manifest with the knowledge that after 90 days, the information is publicly available. Further, at the 90-day point, a claim of confidentiality cannot be made concerning information within the manifest.

The above changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.2 Amend Section 66260.10 Definition of Manifest

Section 66260.10: The current definition of manifest within this section refers to the “the Appendix to chapter 12 of this division” and “the appendix to 40 Code of Federal Regulations part 262”. As discussed within heading 3.0 above, the Hazardous Waste Manifest EPA Form 8700-22 and EPA Form 8700-22A are now available on the U.S. EPA’s website where they are published and available to users. All updates to those forms are now made on the RCRA web site, and the form has been eliminated from 40 Code of Federal Regulations as part of the e-Manifest Act changes. The U.S. EPA website serves the same purpose as the codification in the appendix. Consequently, U.S. EPA has eliminated the reference to the appendix, and DTSC is required to make this change consistent with RCRA. These changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159,

DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.3 Amend Section 66262.20 General Requirements

Section 66262.20(a) and Section 66262.20(a)(1): These sections have been updated to remove obsolete language and include the effective dates for historical manifest procedures under 40 Code of Federal Regulations. Citations to the applicable 40 Code of Federal Regulations sections are also included for reference and clarity within these sections.

Section 66262.20(e): This section is added as a new federal requirement. Within section 66262.20, section (e), is added to inform the generator that an electronic manifest may be prepared and used in lieu of a paper manifest provided the conditions in subsections (e)(1), and (e)(2) are met.

Section 66262.20(e)(1): This section is added as a new federal requirement to inform the generator that an electronic manifest must comply with the requirements of 40 Code of Federal Regulations section 262.24 for the use of electronic manifests.

Section 66262.20(e)(2): This section is added as a new federal requirement to inform the generator that the requirements of 40 Code of Federal Regulations section 3.10 for reporting of electronic documents to U.S. EPA must be complied with.

The above requirements are necessary to maintain consistency with RCRA and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.4 Amend Section § 66262.21. Acquisition and Submission of Manifests.

Section 66262.21(d): This section is being amended to make the current language for manifest copy distribution consistent with the federal language under 40 Code of Federal Regulations 262.21(f)(6) through (f)(6)(v). Each copy of the manifest must be distributed according to the scheme laid out in the federal regulations. The first copy (page one) is designated for the e-Manifest System. The balance of copies is required to be distributed as follows: Page 2: "Designated facility to generator;" Page 3: "Designated facility", Page 4: "Transporter copy", and Page 5: (bottom copy): "Generator's initial copy". The sixth copy that was formerly a second facility copy has been eliminated due to the electronic record that is maintained in the e-Manifest System. The above requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations

provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program.

Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

Section 66262.21(f): This section is being amended to make the current language for supplying a manifest copy to the department consistent with the language under Health and Safety Code section 25160(b)(1)(C), which provides that the generator must supply a copy of a paper manifest used unless the manifest is processed completely through the e-Manifest System. This is a non-substantive change and does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100.

Section 66262.21(f)(1): This section is being added to state that the department may establish a means of electronic submission of generator manifests that are initiated on a paper manifest. This provision will increase the department's movement toward electronic submission of paper manifest copies when an electronic submission system is developed.

6.5 Amend Section 66263.20. Manifest Procedures for the Transporter

Section 66263.20(a)(1): This section is being amended to make the current language and numbering system align with or parallel to new RCRA requirements and to allow use of the electronic manifest. The current section 66263.20(a) is split into sections (a)(1) and (a)(2). Section 66263.20(a) becomes section 66263.20(a)(1) and provides for the submission of an electronic manifest that is obtained, completed, and transmitted in accordance with 40 Code of Federal Regulations section 262.20(a)(3), and signed with a valid and enforceable electronic signature as described in section 262.25 as meeting legal requirements for the preparation, use, and submission of the manifest. This requirement notifies transporters of the legal use of the manifest in accordance with 40 Code of Federal Regulations.

Section 66263.20(a)(2): This section was part of section 66263.20(a). This amendment does not change the existing language regarding hazardous waste exports subject to 40 Code of Federal Regulations sections 252.83(d) and title 22 section 66252.83(d). This amendment only reorders the requirement for consistency with the federal structure.

Section 66263.20(a)(3): This is a new federal requirement. This section is being added to align it with federal requirements for the effective date of manifest forms and manifest procedures that were in effect until September 5, 2006. Because manifests may be filed late, and different procedures apply up to the September 5, 2006 expiration date, it is necessary to provide the specific cut-off date for the applicable procedures. Effective dates for manifest requirements are also found in Health and Safety Code sections 25160(a), 25160(a)(1), 25160(a)(1)(A) and 25160(a)(1)(B), and California Code of

Regulations, title 22, section 66260.10. However, this new requirement places the specific effective date within the transporter requirements and maintains the parallel structure of the federal requirements.

Section 66263.20(a)(4): This is a new federal requirement. This section is being added to align it with federal requirements to notify the transporter that electronic manifests which are obtained, completed, and transmitted in accordance with 40 Code of Federal Regulations section 262.20(a)(3), and used in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms with handwritten signatures and are sufficient for any requirement to obtain, complete, sign, provide, use, or retain a manifest. This requirement mirrors the requirement within Health and Safety Code section 25160(a). This new section places the manifest requirements within the transporter requirements of title 22, division 4.5 and maintains the parallel structure of the federal requirements.

Section 66263.20(a)(4)(A): This is a new federal requirement. This section is being added to align it with federal requirements to notify the transporter that electronic manifest signatures under this chapter are required to meet the criteria of 40 Code of Federal Regulations section 262.25(a). This new section places the specific requirements within the transporter requirements of title 22, division 4.5 and maintains the parallel structure of the federal requirements.

Section 66263.20(a)(4)(B): This is a new federal requirement. This section is being added to align it with federal requirements to notify the transporter that any requirement in title 22, division 4.5 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the e-Manifest System.

Section 66263.20(a)(4)(C): This is a new federal requirement. This section is being added to align it with federal requirements to notify the transporter that any requirement in title 22, division 4.5 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment. It also requires that the transporter comply with 49 Code of Federal Regulations section 177.817 pertaining to hazardous waste transportation. This provision requires that transporters of hazardous materials on public highways carry one printed copy of the electronic manifest on the transport vehicle. These requirements are also found in Health and Safety Code sections 25160(d)(1), 25160(d)(2) and 25160(d)(3). This new section places the specific requirements within the transporter requirements of title 22, division 4.5 and maintains the parallel structure of the federal requirements.

Section 66263.20(a)(4)(D): This is a new federal requirement. This section is being added to align it with the federal requirements to notify the transporter that any requirement in title 22, division 4.5 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any U.S. EPA or authorized state inspector.

This new section places the specific requirements within the transporter requirements of title 22, division 4.5 and maintains the parallel structure of the federal requirements.

Section 66263.20(a)(4)(E): This is a new federal requirement. This section is being added to align it with federal requirements to provide that the transporter may not be held liable for the inability to produce an electronic manifest for inspection if the transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the e-Manifest System for which the transporter bears no responsibility.

Section 66263.20(a)(5): This is a new federal requirement. This section is being added to align it with federal requirements to provide that the transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.

Section 66263.20(a)(6): This is a new federal requirement. This section is being added to align it with the federal requirements to provide that once a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, that the transporter will follow specific procedures outlined in sections 66263.20(a)(6)(A)-(D) (summarized below).

Section 66263.20(a)(6)(A): This is a new federal requirement. This section is being added to align it with the federal requirements to provide that when a transporter in possession of the hazardous waste when the e-Manifest System becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to paragraph (a)(4)(C) of this section or obtain and complete another paper manifest. This section also provides that the transporter reproduce manifest copies for the transporter and all subsequent waste handlers.

Section 66263.20(a)(6)(B): This is a new federal requirement. This section is being added to align it with federal requirements to provide transporter procedures for an electronic manifest that is replaced by the paper manifest.

Section 66263.20(a)(6)(C): This is a new federal requirement. This section is being added to align it with federal requirements to provide that a transporter signing a replacement manifest acknowledge receipt of the hazardous waste and ensure that each paper copy is individually signed with a legible handwritten signature on each copy.

Section 66263.20(a)(6)(D): This is a new federal requirement. This section is being added to align it with federal requirements to provide that from the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility following all paper manifest requirements.

Section 66263.20(a)(7): This is a new federal requirement. This section is being added to align it with federal requirements to provide that when a transporter using an

electronic manifest signs the manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests for the signature method, the transporter signs the electronic manifest electronically and also signs with an ink signature on the printed copy of the manifest that is carried on the transport vehicle in accordance with section 66263.20(a)(4)(C). This section further provides for signing the manifest by the parties with an indication of any discrepancies found and the facility's ink signature on the manifest upon receipt of the waste.

Section 66263.20(a)(8) (Reserved.): This new section is being added to align it with federal requirements and maintain the U.S. EPA numbering scheme within this section.

Section 66263.20(a)(9): This is a new federal requirement. This new section is being added to align it with federal requirements to provide that after facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person/waste handler named on the manifest. It also provides that transporters may participate electronically in the post-receipt data corrections process specified in 40 Code of Federal Regulations section 264.71(l), which applies to corrections made to either paper or electronic manifest records.

The above requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

The renumbering changes to section 66263.20(a) are changes without regulatory effect pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1. These changes are without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4). Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

6.6 Amend Section 66263.21. Transporter Compliance with the Manifest

The amendment includes sections 66263.21(b)(1) through 66263.21(e) to add new federal transporter requirements and renumber others. These requirements involve various transportation circumstances and are necessary to maintain consistency with RCRA. These changes do not materially alter any requirement, right, responsibility,

condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program.

Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen. This amendment also includes renumbering of sections 66263.21(c)(1) through 66263.21(e) A brief description of each requirement and its purpose is listed below.

Section 66263.21(b)(1): This is a new federal requirement. This section is being amended to incorporate updated federal language for en route changes to transporters and emergency conditions encountered by the transporter. The update provides instructions for the transporter to contact the generator for further directions and to revise the manifest according to the generator's instructions. This section is also amended to remove obsolete language for emergency procedures for the date of applicability (“ . . . on and after September 5, 2006. . .”). Within this amended section, references to existing sections (a)(1), (a)(2), and (a)(4) are added for circumstances when those provisions cannot be complied with due to an emergency.

Section 66263.21(b)(2): This section is being amended to incorporate updated federal instructions for the transporter for en route changes to transporters and emergency conditions. The update provides that if the hazardous waste is not delivered to the next designated transporter in accordance with section 66263.21(a)(3) of this section, and the current-transporter is without contractual authorization from the generator to act as the generator's agent for transporter additions or substitutions, the current transporter contacts the generator for further instructions prior to making any revisions to the transporter designations on the manifest. This amendment further provides the conditions under which the current transporter may make additional manifest revisions as detailed in sections 66263.21(b)(2)(A), 66263.21(b)(2)(B) and 66263.21(b)(2)(C) below.

Section 66263.21(b)(2)(A): This is a new federal requirement. This amendment adds section 66263.21(b)(2)(A) to list the conditions under which the transporter can change the transporter on the manifest when the hazardous waste is not delivered in accordance with section 66263.21(a)(3) due to an emergency condition.

Section 66263.21(b)(2)(B): This is a new federal requirement. This amendment adds section 66263.21(b)(2)(B), which provides the conditions under which the current transporter may change the transporter(s) designated on the manifest by the generator or to add a new transporter during transportation to respond to an emergency or for transportation efficiency, convenience, or safety.

Section 66263.21(b)(2)(C): This is a new federal requirement. This amendment adds section 66263.21(b)(2)(C) which provides that the changes of this section may be made if the generator authorizes revision of the designated transporter stated on the manifest.

Section 66263.21(b)(3): This is a new federal requirement. This amendment adds section 66263.21(b)(3) to provide that if the hazardous waste is not delivered to the next designated transporter in accordance with section 66263.21(a)(3), and the current transporter has authorization from the generator to act as the generator's agent, the current transporter may change the transporter(s) designated on the manifest or add a new transporter during transportation without the generator's prior approval under the conditions provided in sections 66263.21(b)(3)(A), 66263.21(b)(3)(B) and 66263.21(b)(3)(C) below.

Section 66263.21(b)(3)(A): This is a new federal requirement. This amendment adds section 66263.21(b)(3)(A) to provide that the current transporter may make changes to the transporter designated on the manifest only if that transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make transporter changes on behalf of the generator.

Section 66263.21(b)(3)(B): This is a new federal requirement. This amendment adds section 66263.21(b)(3)(B) to require that the transporter enter in Item 14 of each manifest for which a transporter change is made with a specific statement of its agency authority granted by the generator.

Section 66263.21(b)(3)(C): This is a new federal requirement. This amendment adds section 66263.21(b)(3)(C) to provide that the change in designated transporters is necessary to respond to an emergency or for purposes of transportation efficiency, convenience, or safety.

Section 66263.21(b)(4): This is a new federal requirement. This amendment adds section 66263.21(b)(4) to provide that the grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under paragraph (b)(3) of this section does not affect the generator's liability or responsibility for complying with any applicable requirement under chapter 13 (Standards Applicable to Transporters of Hazardous Waste) or grant any additional authority to the transporter to act on behalf of the generator. This provision limits the transporter's authority to act on behalf of the generator and affirms the generator's responsibility for compliance for transportation of their waste.

Section 66263.21(c): This is a new federal requirement. This amendment adds section 66263.21(c) to list the procedures for the transporter to follow if a hazardous waste is rejected by the designated facility while the transporter is on the facility's premises as provided in sections 66263.21(c)(1) and 66263.21(c)(2) below, which are existing sections that have been renumbered to align them with the federal format.

Section 66263.21(c)(1): This section has been renumbered from section 66263.21(b)(2)(A) to 66263.21(c)(1) to align the list of transporter procedures for a partial load of rejected waste for a parallel consistency with the federal numbering format. No changes to the existing requirements have been made. Specifically, this section details the transporter's manifest procedures to follow for a partial load rejection or for regulated quantities of container residues. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter is required to obtain a new manifest from

the facility to accompany the shipment. The new manifest is required to include the information required in section 66264.72 subsections (e)(1)-(6) or (f)(1)-(6) or section 66265.72 subsections (e)(1)-(6) or (f)(1)-(6).

Section 66263.21(c)(2): This section has been renumbered from section 66263.21(b)(2)(B) to 66263.21(c)(2) to align the list of transporter procedures for load rejection for a parallel consistency with the federal numbering format. No changes to the existing requirements are included. This requirement provides procedures for a full load rejection that will be taken back by the transporter and the alternate facility or generator to whom the shipment is to be delivered. If the original manifest is not used, then the transporter obtains a new manifest from the facility for the shipment and complies with section 66264.72 subsections (e)(1)-(6) or section 66265.72 subsections (e)(1)-(6).

Section 66263.21(d): This section has been renumbered from section 66263.21(c) to section 66263.21(d) to accommodate the inclusion of the added section 66263.21(c) above. No changes to the existing requirements are included. This section provides procedures for vehicle inspections by the transporter prior to the removal of the container from the facility.

Section 66263.21(e): This section has been renumbered from section 66263.21(d) to section 66263.21(e) to accommodate the inclusion of the added section 66263.21(c) and renumbering above. No changes to the existing requirements are included. This section provides transporter manifest procedures for vehicles or bulk containers that cannot be rendered empty at the facility and generator follow-up.

6.7 Amend Section 66264.71 Use of Manifest System, Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities

Amendments to section 66264.71 include two different types of changes. The changes to section 66264.71 that add effective dates for manifest handling procedures and those that include new federal procedures and effective dates for manifest processes for electronic and combination paper/electronic or “hybrid” manifesting procedures that are part of the e-Manifest Act changes. The necessity of those changes is detailed below in sections 66264.71(a)(1) through 66264.71(m)(5). These requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

Section 66264.71 (a)(1)(F): This section is being amended to include the effective date for manifest procedures prior to the effective date of the e-Manifest System. This amendment is necessary so that facilities will not be confused as to which procedure applies to the submission requirements for manifests based on the date of the facility's receipt of the manifest. The date of the facility's manifest receipt determines whether the manifest is required to be submitted to the state or processed through the e-Manifest System. Manifests received by facilities prior to June 30, 2018 were required to be submitted to the state in accordance with the procedures outlined in section 66264.71(a)(1). However, under the e-Manifest procedures that became effective on June 30, 2018, states cannot require facilities to submit manifest copies. States must now obtain those copies or electronic records from the e-Manifest System. Because some facilities may submit a manifest late, DTSC must retain the existing state requirements so that facilities are not sending manifests received prior to June 30, 2018 to U.S. EPA. The procedures covered by the time frame prior to and through June 29, 2018 remain in place for late manifest filings.

The amendment adds to section 66264.71(a)(1)(F) the following effective date language to the outlined procedures: "Through June 29, 2018." Through this date, within 30 days of the facility's receipt of a hazardous waste manifest, the facility must submit a legible copy of each manifest used to DTSC. This provision further requires that the facility manifest copy shall be submitted to the department for every shipment on a manifest when California is either the generator state or the destination state and the DTSC address for mailing copies. This differs from the RCRA provisions due to DTSC's collection of manifests prior to the e-Manifest System. As an authorized state, DTSC can continue to collect facility manifest copies dated prior to June 30, 2018.

Section 66264.71(a)(1)(H): This is a new federal requirement. This section is being added to list the new U.S. EPA manifest procedures that became effective June 30, 2018 for paper manifests and the e-Manifest System. This requirement is necessary to alert facilities to the effective date of the e-Manifest procedures.

Section 66264.71(a)(1)(H)1: This is a new federal requirement. This section is being added to inform facilities of the various ways in which they may submit paper manifests or image files or electronic media to the e-Manifest System beginning on June 30, 2018. This section also informs facilities that as of June 30, 2021, U.S. EPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System.

Section 66264.71(a)(1)(H)2: This is a new federal requirement. This section is being added to inform facilities of the options for compliance beginning June 30, 2021 for submission of manifest data. As of June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet or by transmitting to the e-Manifest System both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet within 30 days of the date of delivery. Submissions of copies to the e-Manifest System are then required to be made to the electronic mail/submission address specified at the

e-Manifest program website's directory of services. These specific requirements ensure that facilities understand the deadline and format for submittal of electronic manifests.

Section 66264.71(h): This is a new federal requirement. This section is being added to inform facilities that electronic manifests that are obtained, completed, and transmitted in accordance with 40 Code of Federal Regulations, section 262.20(a)(3) and used in lieu of EPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement to obtain, complete, sign, provide, use, or retain a manifest. This provision confirms the adequacy of the electronic manifest for legal purposes. Sections 66264.71(h)(1) through 66264.71(m)(5) list procedural requirements for facilities that are included in the federal requirements for e-Manifest adoption by the state. A brief description of each requirement included in Sections 66264.71(h)(1) through 66264.71 (m)(5) is given below. These requirements include those relating to the adequacy of the electronic manifest, provisions for retention, access, liability, handling, user fees, manifest discrepancies, manifest corrections, and required copies.

Section 66264.71(h)(1): This is a new federal requirement. This section is being added to require that electronic manifest signatures meet the criteria described in 40 Code of Federal Regulations, section 262.25(a) for electronic signatures. This language mirrors that of Health and Safety Code section 25160.01(b).

Section 66264.71(h)(2): This is a new federal requirement. This section is being added to provide that any requirement in title 22, division 4.5 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

Section 66264.71(h)(3): This is a new federal requirement. This section is being added to provide that any requirement in title 22, division 4.5 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment. This provision informs waste handlers that the electronic manifest is adequate as a record for legal purposes.

Section 66264.71(h)(4): This is a new federal requirement. This section is being added to provide that any requirement in title 22, division 4.5 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest System provided that those copies are readily available for viewing and production if requested by any U.S. EPA or authorized state inspector. This provision informs facilities that electronic manifest records are adequate as records for enforcement authorities.

Section 66264.71(h)(5): This is a new federal requirement. This section is being added to provide that no owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility. With this provision, the facility owner/operator will not be liable when the

e-Manifest System is experiencing technical difficulties and is not available at the time a waste load is accepted for processing.

Section 66264.71(i): This is a new federal requirement. This section is being added to provide that an owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility. This informs the facility owner/operator of what type of equipment is acceptable for processing electronic manifests.

Section 66264.71(j): This is a new federal requirement. This section is being added to provide that if a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the procedures in sections 66264.71(j)(1) through (4) apply to the delivery of the hazardous waste by the final transporter as listed below.

Section 66264.71(j)(1): This is a new federal requirement. This section is being added to provide that upon delivery of the hazardous waste to the designated facility, the owner or operator confirms that the information on the manifest is consistent with the waste load that is being received by the facility and is corrected if necessary.

Section 66264.71(j)(2): This is a new federal requirement. This section is being added to provide that the owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest. This requirement ensures that the transporter has the completed replacement paper manifest copy for their records.

Section 66264.71(j)(3): This is a new federal requirement. This section is being added to provide that within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System. This requirement ensures that the parties involved in the manifest transaction have a complete, correct record.

Section 66264.71(j)(4): This is a new federal requirement. This section is being added to provide that the owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery. This requirement puts the facility on notice of the record retention requirement for manifest information.

Section 66264.71(k): This is a new federal requirement. This section is being added to provide that if an owner or operator using an electronic manifest signs the manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator is required to also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. The owner or operator is also required to retain the original copy for at least three years from the date of delivery of the waste. This requirement puts the facility owner/operator on notice of the physical signing and retention requirement for the manifest.

Section 66264.71(l)(1): This is a new federal requirement. This section is being added to inform the owner or operator of a user fee assessment imposed by U.S. EPA for the submission and processing of each electronic and paper manifest. This section also informs users that U.S. EPA updates the schedule of user fees and publishes them to the user community as provided in 40 Code of Federal Regulations, section 264.1313.

Section 66264.71(l)(2): This is a new federal requirement. This section is being added to provide that a facility owner or operator subject to user fees and payments is also subject to the requirements of the fee dispute resolution process, and sanctions for delinquent payments under 40 Code of Federal Regulations subpart FF of part 264. The federal requirements lay out detailed procedures for facilities to follow in calculating and submitting user fee payments and resolving payment issues.

Section 66264.71(l)(3): This is a new federal requirement. This section is being added to provide that a facility owner or operator shall submit to the e-Manifest System a final copy of the manifest for data processing purposes. This requirement ensures the final record for the manifest transaction. Subsection (A) of this section is added to ensure that manifest document submissions comply with the provisions of 40 Code of Federal Regulations sections 264.1311(b) and 264.1311(c) for image file uploads and data file uploads from paper manifests to meet U.S. EPA's standards for accuracy and validity.

Section 66264.71(l)(4): This is a new federal requirement. This section is being added to provide that a facility owner or operator shall submit to the e-Manifest System the required fees to the U.S. EPA for each manifest submitted to the e-Manifest System and is subject to the fee determination methodology, payment methods, dispute procedures, sanctions and other fee requirements specified in 40 Code of Federal Regulations subpart FF of part 264. This section is being added to provide that a facility owner or operator submit to the e-Manifest System the required fees and provides the federal reference for fee determination.

Section 66264.71(m): This is a new federal requirement. This section is being added to inform waste handlers that electronic manifest signatures under chapter 14 shall meet the criteria described in 40 Code of Federal Regulations section 262.25(a).

Section 66264.71(n): This is a new federal requirement. This section is being added to inform waste handlers that after facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person/waste handler shown on the manifest. This way, waste handlers are notified of who may make manifest corrections and at what point in time they may do so.

Section 66264.71(n)(1): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that they must make all corrections to manifest data by electronic submission, either by directly entering corrected data into the web-based service provided in the e-Manifest System for corrections or by an upload of a data file containing data corrections for one or more previously submitted manifests. This way interested persons/waste handlers understand in what format manifest corrections must be made and submitted to the e-Manifest System.

Section 66264.71(n)(2): This is a new federal requirement. This section is being added to inform interested persons/waste handlers of the information that must be included with manifest corrections. Sections 66264.71(n)(2)(A) through 66264.71(n)(5) list the specific information elements that must be included for each correction.

Section 66264.71(n)(2)(A): This is a new federal requirement. This section is being added to inform interested persons/waste handlers to include the Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for corrected data.

Section 66264.71(n)(2)(B): This is a new federal requirement. This section is being added to inform interested persons/waste handlers to include the item number of the original manifest that is the subject of the submitted correction.

Section 66264.71(n)(C): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that for each item number with corrected data, the data previously entered, and the corresponding data corrected by the correction submission is required.

Section 66264.71(n)(3): This is a new federal requirement. This section is being added to inform interested persons/waste handlers of the requirement for a certification statement for corrections.

Section 66264.71(n)(3)(A): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that the certification statement must be executed with a valid electronic signature.

Section 66264.71(n)(3)(B): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that a batch upload of data corrections may be submitted under one certification statement.

Section 66264.71(n)(4): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that upon receipt by the e-Manifest System of any correction submission, other interested persons/waste handlers shown on the manifest will be provided electronic notice of the submitter's corrections.

Section 66264.71(n)(5): This is a new federal requirement. This section is being added to inform interested persons/waste handlers that other interested persons/waste handlers shown on the manifest may respond to the submitter's corrections with comments to the submitter or by submitting another correction to the e-Manifest System certified by the respondent as specified in paragraph (n)(3) and with notice of the corrections to other interested persons/waste handlers shown on the manifest.

6.8 Amend Section 66264.1086. Standards: Containers

Section 66264.1086(c)(4)(A): Container Level 1 standards - This is an existing section that is being amended to remove the reference to the appendix to chapter 12 in title 22, division 4.5, but maintain the reference to the manifest form, EPA Forms 8700-22 and 8700-22A. This change is needed because the manifest is being removed as an appendix to be consistent with RCRA as described in the changes noted within headings 1.1, 3.0 and 6.2 above. The requirements in section 66264.1086 are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory

element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

This section is also being amended to correct an erroneous reference to the title 22, division 4.5 chapter number from 30 to 14, Container Level 1 standards. While the RCRA Special Consolidated Checklist refers to subpart CC container standards, the state has an equivalent section for container standards under title 22, division 4.5, chapter 14 container standards. The amendment corrects the chapter reference to the state standard and maintains the reference to the state sections pertaining to standards for containers. These changes are without regulatory effect pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(4) because they do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4). DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

Section 66264.1086(d)(4)(A): Container Level 2 standards - This is an existing section that is being amended to remove the reference to the appendix to chapter 12 in title 22, division 4.5, but maintain the reference to the manifest form, EPA Forms 8700-22 and 8700-22A. This change is needed because the manifest is being removed as an appendix to be consistent with RCRA as described in the changes noted in the discussion above. The requirements in section 66264.1086 are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

This section is also being amended to correct an erroneous reference to the title 22 division 4.5 chapter reference number from 30 to 14, Container Level 2 standards. While the RCRA Special Consolidated Checklist refers to subpart CC container standards, the state has an equivalent section for container standards under title 22 division 4.5, chapter 14. The amendment corrects the chapter reference to the state standard and maintains the reference to the state sections pertaining to standards for containers. These changes are without regulatory effect pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(4) because they do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4). Pursuant to

Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.9 Amend Section 66265.71. Use of Manifest System, Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities

The amendments to section 66265.71 are necessary for the same reasons stated within heading 6.8 for facilities regarding the effective date for manifest procedures pre-dating the e-Manifest System implementation and new e-Manifest procedures and conditions. These requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

Section 66265.71(a)(2)(F): This amendment is necessary to inform facilities of the effective date for manifest procedures pre-dating the e-Manifest System implementation. The amendment adds to section 66265.71 (a)(1)(F) the following effective date language to the outlined procedures: "Through June 29, 2018." Through this date, within 30 days of the facility's receipt of a hazardous waste manifest, the facility must submit a legible copy of each manifest used to DTSC. This provision further requires that the facility manifest copy be submitted to the department for every shipment on a manifest when California is either the generator state or the destination state and the DTSC address for mailing copies. This differs from the RCRA provisions due to DTSC's collection of manifests prior to the e-Manifest System. As an authorized state, DTSC can continue to collect manifests dated prior to June 30, 2018. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

Sections 66265.71(a)(2)(H) through 66265.71(a)(2)(O) are new RCRA requirements. The content of the added requirements within section 66265.71(a)(2)(H) through (I)(5)(O) is identical in content to section 66264.71(a)(1)(H), but the sections are numbered differently. Sections 66265.71(a)(2)(H) through (I)(5)(O) are listed here with a brief summary of the purpose of each section.

Section 66265.71(a)(2)(H): This is a new federal requirement. This section is being added to list the new U.S. EPA manifest procedures that became effective June 30, 2018 for paper manifests, electronic manifests, and the e-Manifest System. This provision alerts facilities to the effective date of the e-Manifest procedures.

Section 66265.71(a)(2)(H)1: This is a new federal requirement. This section is being added to detail the options for compliance beginning on June 30, 2018. As of that date, the facility is required to send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the U.S. EPA's e-Manifest System for purposes of data entry and processing, or in lieu of submitting the paper copy to U.S. EPA, the owner or operator may transmit to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet within 30 days of the date of delivery. Submissions of copies to the e-Manifest System are required to be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. This section also informs users that as of June 30, 2021, U.S. EPA no longer accepts mailed paper manifests from facilities for processing in the e-Manifest System.

Section 66265.71(a)(2)(H)2: This is a new federal requirement. This section is being added to detail the options for compliance commencing June 30, 2021. As of that date, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the e-Manifest System both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest System are to be made to the electronic mail/submission address specified at the e-Manifest System website's directory of services.

Section 66265.71(a)(2)(I): This is a new federal requirement. This section is being added to notify facilities that electronic manifests that are obtained, completed, and transmitted in accordance with 40 Code of Federal Regulations section 262.20(a)(3) and used in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this chapter to obtain, complete, sign, provide, use, or retain a manifest.

Section 66265.71(a)(2)(I)1.: This is a new federal requirement. This section is being added to notify facilities that electronic manifest signatures under this chapter shall meet the criteria described in 40 Code of Federal Regulations section 262.25(a).

Section 66265.71(a)(2)(I)2.: This is a new federal requirement. This section is being added to notify facilities that any requirement in title 22, division 4.5 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

Section 66265.71(a)(2)(I)3.: This is a new federal requirement. This section is being added to notify facilities that any requirement in title 22, division 4.5 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic

manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

Section 66265.71(a)(2)(I)4.: This is a new federal requirement. This section is being added to notify facilities that any requirement in title 22, division 4.5 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any U.S. EPA or authorized state inspector.

Section 66265.71(a)(2)(I)5.: This is a new federal requirement. This section is being added to notify the facility owner or operator that no owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.

Section 66265.71(a)(2)(J): This is a new federal requirement. This section is being added to notify the facility owner or operator that they may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

Section 66265.71(a)(2)(K): This is a new federal requirement. This section is being added to notify the facility that receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically of the procedures that apply to the delivery of the hazardous waste by the final transporter.

Section 66265.71(a)(2)(K)1. This is a new federal requirement. This section is being added to notify the facility owner or operator that upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand and note the discrepancies of the paper replacement manifest.

Section 66265.71(a)(2)(K)2.: This is a new federal requirement. This section is being added to notify the facility owner or operator that they shall give back to the final transporter one copy of the paper replacement manifest.

Section 66265.71(a)(2)(K)3.: This is a new federal requirement. This section is being added to notify the facility owner or operator that within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System.

Section 66265.71(a)(2)(K)4.: This is a new federal requirement. This section is being added to notify the owner or operator of the facility that one copy of the paper replacement manifest shall be retained at the facility for at least three years from the date of delivery.

Section 66265.71(a)(2)(L): This is a new federal requirement. This section is being added to notify the owner or operator that when using an electronic manifest and signing the manifest electronically and using an electronic signature method which is undergoing pilot or demonstration tests, the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. This section also requires retention of the original record for at least three years from the date of delivery of the waste.

Section 66265.71(a)(2)(M)1.: This is a new federal requirement. This section is being added to notify owners and operators of the obligation to pay manifest fees as prescribed in 40 Code of Federal Regulations section 265.1311 and determined in 40 Code of Federal Regulations section 265.1312 of. This section notifies owners and operators who are users of the e-Manifest System of the assessment of a user fee by U.S. EPA for the submission and processing of each electronic and paper manifest. This section also notifies users that U.S. EPA updates the schedule of user fees.

Section 66265.71(a)(2)(M)2.: This is a new federal requirement. This section is being added to notify owners and operators subject to user fees under this section of required user fee payments in accordance with the requirements of 40 Code of Federal Regulations section 265.1314, the informal fee dispute resolution process of 40 Code of Federal Regulations section 265.1316, and sanctions for delinquent payments under 40 Code of Federal Regulations section 265.1315.

Section 66265.71(a)(2)(M)3.: This is a new federal requirement. This section is being added to notify owners and operators that they shall submit to the e-Manifest System a final copy of the manifest for data processing purposes. Subsection (A) of this section is added to ensure that manifest document submissions comply with the provisions of 40 Code of Federal Regulations sections 265.1311(b) and 265.1311(c) pertaining to the requirements for image file uploads and data file uploads from paper manifests to meet U.S. EPA's standards for accuracy and validity.

Section 66265.71(a)(2)(N): This is a new federal requirement. This section is being added to notify facilities that electronic manifest signatures under chapter 15 shall meet the criteria described in 40 Code of Federal Regulations section 262.25(a).

Section 66265.71(a)(2)(O): This is a new federal requirement. This section is being added to notify facilities of manifest correction procedures. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person/waste handler shown on the manifest. The related sections that follow list additional procedures/requirements for handlers making manifest corrections.

Section 66265.71(a)(2)(O)1.: This is a new federal requirement. This section is being added to notify interested persons/waste handlers that all corrections to manifest data shall be made by electronic submission, either by directly entering corrected data to the web-based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

Section 66265.71(a)(2)(O)2.: This is a new federal requirement. This section is being added to require that each correction submission include the information listed in the related sections 66265.71(a)(1)(O)2.a. through 66265.71(a)(1)(O)2.c.

Section 66265.71(a)(2)(O)2.a.: This is a new federal requirement. This section adds the requirement to include the Manifest Tracking Number and date of receipt by the facility of the original manifest(s) for which data are being corrected.

Section 66265.71(a)(2)(O) 2.b.: This is a new federal requirement. This section is being added to require that the item number of the original manifest that is the subject of the corrections be included.

Section 66265.71(a)(2)(O)2.c.: This is a new federal requirement. This section is being added to require that for each item number with corrected data, the data previously entered and the corresponding data corrected by the correction submission be included.

Section 66265.71(a)(2)(O)3.: This is a new federal requirement. This section is being added to require that each correction submission include a statement that the person submitting the corrections certify that the corrections included in the submission will result in the information reported about the previously received hazardous wastes to be true, accurate, and complete:

Section 66265.71(a)(2)(O)a.: This is a new federal requirement. This section is being added to require that the certification statement must be executed with a valid electronic signature.

Section 66265.71(a)(2)(O)b.: This is a new federal requirement. This section is being added to allow for a batch upload of data corrections to be submitted under one certification statement.

Section 66265.71(a)(2)(O)4.: This is a new federal requirement. This section is being added to notify waste handlers that upon receipt by the e-Manifest System of any correction submission, other interested persons/waste handlers shown on the manifest will be provided electronic notice of the submitter's corrections.

Section 66265.71(a)(2)(O)5.: This is a new federal requirement. This section is being added to notify waste handlers that other interested persons/waste handlers shown on the manifest may respond to the submitter's corrections with comments to the submitter or by submitting another correction to the e-Manifest System certified by the respondent as specified in paragraph (O)3. and with notice of the corrections to other interested persons/waste handlers shown on the manifest.

6.10 Amend Section 66265.1087 Standards: Containers

The changes to the existing section 66265.1087 involve amendments to two subsections: 66265.1087(c)(4)(A), Container Level 1 standards and 66265.1087(d)(4)(A) Container Level 2 standards. These changes are similar to those made within heading 6.7 above to remove the reference to the appendix to chapter 12 in title 22, division 4.5 but maintain the reference to the manifest forms, EPA Forms 8700-22 and 8700-22A. These changes are needed because the manifest is being removed as an appendix to be consistent with RCRA. The requirements in section 66265.1087 are necessary to maintain consistency with RCRA, and these changes do

not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1, and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

The amendments to section 66265.1087 also include changes to correct an erroneous reference to the title 22, division 4.5 chapter reference number from 30 to 15 for container standards. While the RCRA Special Consolidated Checklist refers to subpart CC container standards, the state has an equivalent section for container standards under title 22, division 4.5, chapter 15. The amendment corrects the chapter reference to the state standard and maintains the reference to the state sections pertaining to standards for containers. These changes are changes without regulatory effect pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(4) because they do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.11 Remove Appendix to California Code of Regulations, title 22, division 4.5, chapter 12, article 8, Transboundary Movements of Hazardous Waste for Recovery or Disposal

DTSC seeks to delete a regulatory provision which was removed from 40 Code of Federal Regulations pursuant to the e-Manifest Act. Specifically, DTSC proposes to delete the Appendix, hazardous waste manifest EPA Form 8700-22 and continuation form EPA Form 8700-22A, from California Code of Regulations, title 22, division 4.5, chapter 12, article 8. DTSC has no discretion to preserve the manifest copy, EPA Form 8700-22 and continuation form EPA Form 8700-22A, in regulation. As discussed within headings 1.1, 3.0 and 6.2 above, the Appendix is being removed because the hazardous waste manifest form, EPA 8700-22 and continuation form EPA Form 8700-22A are now available on the U.S. EPA's website where they are published along with updates. The elimination of the manifest as a form within title 22, division 4.5 is necessary to maintain consistency with RCRA, and this change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulation is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.12 Amend Sections 66262.23, 66262.44, 66263.32, 66264.72, 66264.78, 66265.72, 66265.78 to Remove Reference to Appendix to chapter 12 (Cal. Code Regs., tit. 22, div. 4.5, ch. 12, art. 8, Transboundary Movements of Hazardous Waste for Recovery or Disposal)

As discussed above, U.S. EPA has eliminated the hazardous waste manifest as an appendix within 40 Code of Federal Regulations and requires that states do so within sections specified in the RCRA Special Consolidated Checklist. However, the checklist does not list all California regulatory sections affected by the elimination of the manifest as an appendix. Consequently, references to the manifest as an appendix within seven additional sections of title 22, division 4.5 must also be eliminated for consistency. These changes are necessary to avoid confusion on the part of waste handlers and to be consistent with the e-Manifest regulations. This is the only change being made to each of those sections. These changes are without regulatory effect pursuant to Health and Safety Code section 25159.1 and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision pursuant to California Code of Regulations, title 1, section 100(a)(4). DTSC has no discretion to adopt a change which differs in substance from the one chosen pursuant to Health and Safety Code section 25159.

6.13 Add Section 66262.24 Use of the Electronic Manifest

Section 66262.24(a): This section is added as a new federal requirement that informs waste handlers that electronic manifests are legally equivalent to paper manifests in terms of attainment, completion, signatures, use, providing copies, and retention of a manifest when completed and transmitted according to 40 Code of Federal Regulations section 262.20. The language of this requirement mirrors that of Health and Safety Code section 25160.01(a) and is repeated within California Code of Regulations, title 22, for continuity of requirements within the context of use of the electronic manifest.

Section 66262.24(a)(1): This section is added as a new federal requirement that informs waste handlers that electronic manifest signatures must conform to 40 Code of Federal Regulations standards specified in section 262.25(a), which requires that electronic signatures shall be legally valid and enforceable under U.S. EPA and other federal requirements pertaining to electronic signatures. The referenced section further requires that the signature be designed and implemented in a manner that U.S. EPA considers to be cost effective and practical for manifest users.

Section 66262.24(a)(2): This section is added as a new federal requirement to inform the generator that any requirement in title 22, division 4.5 that requires a manifest copy is satisfied when an electronic manifest copy is transmitted to the other person by submission to the e-Manifest System in accordance with Health and Safety Code sections 25160.01(a) and 25160.01(b).

Section 66262.24(a)(3): This section is added as a new federal requirement. This provision confirms that the national e-Manifest System account is sufficient for the generator's record retention requirements and requires that manifest copies be available to any U.S. EPA or authorized state inspector. For inspection or enforcement

of a shipment, inspectors may review manifest data to ensure compliance or to detect discrepancies.

Section 66262.24(a)(4): This section is added as a new federal requirement. Under (a)(4), the conditions for the generator's liability to produce an electronic manifest for inspection is limited when the generator can demonstrate that the inability to produce the electronic manifest is due to technical difficulties with the e-Manifest System that are not the responsibility of the generator.

Section 66262.24(b): This section is added as a new federal requirement and provides that the generator may participate in the e-Manifest System from their own electronic equipment or by accessing the e-Manifest System from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for offsite transportation.

Section 66262.24(c): This section is added as a new federal requirement and provides that a generator can only use an electronic manifest when all waste handlers named on the manifest also use the e-Manifest System except under the hybrid manifest procedure.

Section 66262.24(c)(1): This section is added as a new federal requirement and describes the partial paper and electronic manifest procedure, known as the hybrid manifest procedure.

Section 66262.24(c)(2): This section is reserved and is added for consistency with the federal numbering scheme.

Section 66262.24(d): This section is added as a new federal requirement and notifies generators that they must supply the initial transporter with one printed copy of the electronic manifest so that the transporter can comply with 49 Code of Federal Regulations section 177.817 transportation requirements to produce a copy of the manifest to a state or federal authorized representative.

Section 66262.24(e): This section is added as a new federal requirement and provides that if a generator prepares an electronic manifest for a hazardous waste shipment, and the e-Manifest System becomes unavailable before the transporter electronically signs the manifest, the generator must complete a paper manifest and continuation sheet, if necessary, and use the paper forms in accordance with 40 Code of Federal Regulations section 262.23.

Section 66262.24(f): This section is added as a new federal requirement and provides that when an electronic signature method is undergoing tests, and the generator has prepared an electronic manifest, the generator must also sign the printed copy of the manifest in ink.

Section 66262.24(g): This section is added for consistency with the federal numbering scheme and is reserved.

Section 66262.24(h): This section is added as a new federal requirement and provides that generators may make post-receipt manifest data corrections by following the procedure outlined in 40 Code of Federal Regulations section 264.71(l) that applies to either paper or electronic manifest records.

The above requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.14 Add Section 66262.25 Electronic Manifest Signatures

This is a new federal requirement which adds the specific conditions under which U.S. EPA considers an electronic signature acceptable. Addition of these requirements also maintains a consistent, parallel regulatory structure between the federal requirements and the state requirements.

Section 66262.25(a): This is a new federal requirement added to require that the electronic manifest signature conform to the conditions of provisions (1) and (2) below.

Section 66262.25(a)(1): Section (1) is a new federal requirement added to require that the electronic manifest signature be a legally valid and enforceable signature under applicable U.S. EPA and other federal requirements pertaining to electronic signatures.

Section 66262.25(a)(2): Section (2) is a new federal requirement added to require that the signature method be designed and implemented in a manner that U.S. EPA considers to be as cost-effective and practical as possible for the users of the manifest, which would include the generator, transporter, and transfer, treatment and disposal facility.

The above requirements are necessary to maintain consistency with RCRA, and these changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision. Pursuant to Health and Safety Code section 25159.1 and California Code of Regulations, title 1, section 100(a)(6), adoption of these regulations is considered a change without regulatory effect because the purpose of the proposed regulations is to maintain RCRA authorization to administer the state hazardous waste program. Pursuant to Health and Safety Code section 25159.1, the proposed regulations are not more stringent and are not broader in scope than the corresponding federal regulations. Pursuant to Health and Safety Code section 25159, DTSC has no discretion to adopt a change which differs in substance from the one chosen.

6.15 Add Section 66263.25 Electronic Manifest Signatures

Section 66263.25(a): This is a new federal requirement. Electronic manifest signatures for transporters under this chapter shall meet the criteria described in 40 Code of Federal Regulations section 262.25. This requirement mirrors that of Health and Safety Code section 25160.01(b).

Office of Administrative Law

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Please refer to Strikeout/Underline Version and Plain Text (As Amended) Version of the regulatory text.

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