

FINAL STATEMENT OF REASONS

Consolidated Universal Waste Regulations and Authorized Treatment of Electronic Hazardous Waste

Department of Toxic Substances Control Reference Number: R-2006-02
Office of Administrative Law Notice File Number: Z2008-0616-03

UPDATE OF INITIAL STATEMENT OF REASONS

As authorized by Government Code section 11346.9, subdivision (d), the Department of Toxic Substances Control (DTSC) incorporates by reference the Initial Statement of Reasons prepared for this rulemaking. Amendments and deletions made to the Initial Statement of Reasons were made to clarify statements made in the section titled **Detailed Statement of Reasons**, to amend the existing detailed statement of reasons as a result of public comments received during the 45-Day Public Notice and Comment Period, or to amend the detailed statement of reasons as a result of amended regulation text and public comments received during the 15-Day Public Notice and Comment Period of Post-Hearing Changes. These amendments are shown below as underline text (underline) for amendments and strikeout text (~~strikeout~~) for deletions.

Detailed Statement of Reasons

Amend Section 66260.10¹, Definitions: Several terms and their associated definitions are added to this section. These definitions are added to chapter 10 as these terms are used throughout the remainder of division 4.5. This amendment is necessary to ensure that when these terms are encountered in chapters other than 23, persons can find an accurate definition in this section which serves as the primary location for definitions for this division. Terms added to this section are: cathode ray tube, CRT, CRT device, electronic device, and universal waste. The introductory paragraph of this section has been amended to remove the sentence that references additional definitions contained in section 66273.9 to remove confusion as this sentence is unnecessary.

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

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

¹ For purposes of this Final Statement of Reasons, all regulatory references are to the Cal. Code Regs., tit. 22, div. 4.5, unless otherwise specified. All abbreviations and acronyms are provided in the Initial Statement of Reasons, incorporated by reference herein.

"Scrap metal" has been amended by adding **subsections (a)(4) and (b)(7)** to clarify that printed circuit boards may be managed as scrap metal despite their relatively low metal content. As a result of these amendments, persons who manage residual printed circuit boards that are recycled are not regulated under the hazardous waste regulations.

Secondly, these amendments clarify that in establishing these alternative management standards for electronic wastes, DTSC is temporarily reinstating regulation of residual printed circuit boards removed from electronic devices by a handler authorized under article 7 to ensure the residual printed circuit boards are properly managed. Specifically, DTSC is authorizing the removal of the residual printed circuit boards (i.e., a component of an electronic device) provided that:

- (1) the residual printed circuit boards are containerized;
- (2) a new hazardous waste determination is made for the residual printed circuit boards; and
- (3) the handler ensures the residual printed circuit boards are ultimately recycled.

These amendments are necessary to clarify both the status of the residual printed circuit boards and the responsibilities of a handler who removes the residual printed circuit boards from an electronic device.

DTSC further finds it necessary to reinstate this limited regulation of the residual printed circuit boards, which could otherwise be exempt from regulation as exempt scrap metal, to ensure that the universal waste handler's facility does not become contaminated with heavy metals. Specifically, in requiring that the residual printed circuit boards are containerized this ensures the residual printed circuit boards will not be mismanaged (e.g., trampled, driven over, or otherwise impacted into the ground). By requiring that a new hazardous waste determination be made, DTSC ensures that the residual printed circuit boards can be classified as scrap metal, when appropriate. Requiring that the residual printed circuit boards be recycled is necessary to ensure the residual printed circuit boards will not be inappropriately disposed, thus posing a hazard of leaching heavy metals into the environment (i.e., air, water, soil). DTSC is implementing these safeguards by delaying the "point of regulatory exemption status" for these residual printed circuit boards, which DTSC studies have shown are the most common, and most simply managed, hazardous component of electronic devices.

Amend Section 66264.1, Purpose, Scope and Applicability: This chapter establishes the minimum standards which define the acceptable management of hazardous waste. **Subsection (d)** is amended to clarify that the standards in this chapter apply to owners and operators of destination facilities which are defined in chapter 23 in section 66273.9. This amendment is necessary to clearly state that destination facilities are hazardous waste management facilities that must comply with

chapter 14 requirements as those requirements pertain to permitted facilities, except for destination facilities that conduct certain universal waste management activities as specifically provided in proposed section 66273.60, subsections (b) and (c). Without this clarifying language, ambiguities will continue in the regulated community on what minimum standards and what authorization schemes apply to destination facilities.

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

Amend Section 66273.2, Applicability -- Batteries: Minor amendments are necessary to correct spelling, grammar and consistency across sections within the chapter.

Subsection (b) has been amended to clarify that, pursuant to Health and Safety Code section 25219.1, subdivision (a), batteries regulated federally pursuant to the federal battery management act shall not be managed under chapter 23 of this division. This clarification is made by expressly excluding from the requirements of chapter 23 persons who collect, store or transport batteries subject to subsection (a) of section 104 [42 U.S.C. § 14323(a)] of the federal Mercury-Containing and Rechargeable Battery Management Act (42 U.S.C. § 14301, et. seq.), and placing such persons on notice that they must conduct those specific activities pursuant to applicable 40 Code of Federal Regulations part 273 standards. This requirement is necessary to effectuate the purpose of Health and Safety Code section 25219.1, subdivision (a) and, by so doing, prevent federal pre-emption issues related to state universal waste battery requirements.

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

Amend Section 66273.3, Applicability—Electronic Devices: This section describes the electronic devices covered under chapter 23. Amendments are made to this section

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

Subsection (b)(2) is added to clarify that electronic devices that do not exhibit a characteristic of hazardous waste, and that are otherwise not identified as hazardous waste pursuant to chapter 11 (such as some listed hazardous wastes containing mercury pursuant to chapter 11, article 4.1), are not to be managed under chapter 23 (i.e., they are not hazardous waste subject to regulation under this division).

This section is also amended to clearly identify for the regulated community those hazardous waste electronic devices that are not eligible for management under chapter 23 standards, even when being recycled. Rather these electronic devices must be managed in compliance with the standards for hazardous wastes. To achieve this purpose, **subsection (b)(3)** is added to clarify that only electronic devices that are identified as hazardous waste solely because they exhibit the characteristic of toxicity may be managed as universal wastes. This text was previously located in section 66273.9 within the definition of "consumer electronic device" which is being repealed in this rulemaking, and is needed in this section for additional clarity. The characteristic of toxicity applies to the whole electronic device and not to discrete components or assemblies of that device (e.g., universal waste batteries that are removed prior to treatment).

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

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

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

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

Subsection (c)(1) is amended to clarify that a used electronic device becomes a waste on the date that the electronic device is discarded (e.g., stored prior to being sent for reclamation). **Subsection (c)(2)** is also amended to clarify that an unused electronic device that is not a retrograde material becomes a waste on the date it is discarded (e.g., stored prior to being sent for reclamation). If an unused electronic device is a retrograde material, the unused electronic waste becomes a waste on the date that it becomes a recyclable material pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10 (the definition of “recyclable material” also includes the conditions under which “retrograde material” becomes a waste).

These amendments are necessary to clarify for universal waste handlers who reclaim unused electronic devices when they are subject to requirements of chapter 23. These amendments are necessary to ensure that entities that handle universal waste electronic devices fully understand when an electronic device is a waste and when it is not a waste.

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

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

Summary of Definitions Amendments

Added	Amended	Repealed
Ampule Closure CESQUWG CRT	Battery Cathode Ray Tube Conditionally exempt small quantity universal waste generator	Consumer electronic device CRT material CRT material handler Large Quantity Handler of Universal

Added	Amended	Repealed
Current Closure Cost Estimate Electronic Device Foreign Destination Gauge Handler of Universal Waste Mercury-added lamp Mercury-containing equipment Mercury gas flow regulator Mercury thermometer Producer <u>Scrap metal</u> Treatment Universal waste dental amalgam Universal waste dilators and weighted tubing Universal waste gas flow regulator Universal waste gauge Universal waste lamp Universal waste mercury counterweights and dampers Universal waste mercury switch Universal waste rubber flooring Universal waste thermometer Universal waste treatment unit	CRT glass Dental amalgam Destination facility Dilators and weighted tubing Gas flow regulator Generator Household Lamp Management Mercury-containing motor vehicle light switch Mercury-containing motor vehicle switch Mercury-containing rubber flooring Mercury-containing counterweights and dampers Mercury switch Onsite Pressure or vacuum gauge Thermometer Thermostat Universal waste Universal waste handler Universal waste transfer facility Universal waste transporter	Waste LCD Mercury gas flow regulator Small Quantity Handler of Universal Waste

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

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

Amend the definition of “conditionally exempt small quantity universal waste generator”:
 This definition is amended to clarify that the generation quantity limits apply to the total amount of RCRA hazardous wastes, including universal wastes that are RCRA hazardous wastes, and do not include universal wastes that are not RCRA hazardous wastes quantities generated include RCRA hazardous wastes. This language is in the current definition and the sentence is reconstructed to remove the text which includes “CRT materials” in the generation quantity calculations. This change is necessary to remove the term “CRT materials” which is being repealed by these proposed regulations. These proposed amendments are necessary to remove inconsistent language and to clarify that generation quantities include all universal wastes, including those that would be RCRA hazardous waste. **Subparagraph (b)** of this definition is deleted to remove the quantity limits for CRTs that would qualify a generator under this category. At the time that these regulations were originally adopted, USEPA did not regulate CRTs under the federal hazardous waste regulations, and therefore these

wastes were considered by DTSC as non-RCRA hazardous wastes. Since that adoption, USEPA has further clarified that certain CRTs are RCRA hazardous wastes that are excluded excludable from RCRA hazardous waste management requirements under certain conditions. Removing these CRT quantity limits clarifies that CRT devices that are RCRA hazardous wastes should be included in the generation quantity limits prescribed in subparagraph (a) of this definition ~~removes the incorrect assumption that these wastes are not RCRA hazardous wastes.~~

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

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

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

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

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

Add the definition of “electronic device”: The definition is added to the section to clarify the use of the term for purposes of this chapter. This new term, “electronic device” and its definition improves clarity for the regulated community as it now more appropriately

classifies “electronic devices” to include “all” devices that contain a CRT. For example, under the proposed definition, televisions and computer monitors are included in the new universal waste category of “electronic devices,” as one might expect, rather than segregated as their own universal waste category (i.e., CRT devices).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Add the definition of "scrap metal": This definition is added to the section to clarify the use of the term for purposes of this chapter. The definition is identical to the definition of "scrap metal" found in section 66260.10, amended as proposed in this rulemaking. A discussion of these amendments is provided in the statement of reasons for the section 66260.10 amendments.

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

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

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

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

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

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

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

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

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

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

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

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

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

Amend Section 66273.32, USEPA Notification, Department Notification, and Reporting Requirements for Universal Waste Handlers: This section prescribes the notification and Identification Number requirements for handlers of all universal wastes (e.g., batteries, lamps, mercury-containing equipment, electronic devices, CRTs and CRT glass). This section is amended to consolidate the notification and reporting requirements for handlers of CRTs and CRT glass into this section and make them applicable to universal waste electronic devices as well.

Subsections (a)(1) and (a)(2) are amended and subsections (b) through (e) are added to the existing regulations to address the requirements for handlers of ~~universal waste~~ electronic devices, CRTs and CRT glass separate from the requirements for handlers of other universal wastes (e.g., batteries, lamps, and mercury-containing equipment). These amendments will incorporate notification requirements for handlers of electronic devices, CRTs, and CRT glass from section 66273.32 of the current emergency regulations.

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

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

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

to existing notification requirements contained in the current emergency regulations (section 66273.32), and for CRTs and CRT glass in existing section 66273.82.

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

Subsection (d) has been added to include the annual reporting requirement for universal waste handlers who accept from any offsite source more than 100 kilograms (220 pounds) of electronic devices, CRTs, and CRT glass. The annual reporting requirements for universal waste handlers who accept CRT devices (included in the category of electronic devices proposed in this rulemaking), CRTs and CRT glass that are incorporated in this new subsection are contained in existing section 66273.83, subsection (c)(6), which is repealed in this proposed rulemaking. Similarly, the annual reporting requirements for universal waste handlers who accept electronic devices that are incorporated in this new subsection are contained in existing emergency regulations section 66273.33, subsection (d)(2)(B).

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

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

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

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

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

Subsection (a)(3) provides an exemption from the treatment requirements of proposed article 7 to universal waste handlers who manage intact electronic devices. This exemption is only allowed when those universal waste handlers comply with subsections (a)(1), (a)(3)(A), and (a)(3)(B) of this section. **Subsection (a)(3)(A) and (a)(3)(B)** are added to clarify that a universal waste handler who manages electronic devices under the exemption provided in this subsection shall ensure that those intact electronic devices remain intact. Language has been added to this subsection to clarify that the “intact” standard does not apply when electronic devices are accidentally or unintentionally broken. In the event that a universal waste handler accepts an electronic devices that is already broken, then the containment standards of this section apply, including subsections (a)(1)(B)1 and (a)(1)(B)2. This subsection does not apply when electronic devices are deliberately “broken” (e.g., dismantled or crushed) as a result of authorized management activities conducted pursuant to this chapter.

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

Subsection (a) retains the existing universal waste labeling options. This will allow universal waste batteries, or containers of batteries, to be labeled consistent with federal universal waste rule battery labeling requirements.

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

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

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

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

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

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

Subsection (b) is amended to allow certain universal waste management activities for universal waste that are RCRA hazardous wastes to be conducted at destination facilities. These universal waste management activities are: sorting batteries by type, mixing battery types in one container, disassembling batteries or battery packs into individual batteries or cells, removing batteries from consumer products, removing lamps from a product or structure (provided the lamp is removed in such a way to prevent breakage), and managing electronic devices, CRTs or CRT glass in accordance

with article 3. Any other management activity related to universal wastes that are RCRA hazardous wastes would require that these destination facilities conduct those activities in accordance with applicable requirements of chapters 14, 15, 16, 18, 20 and 22 of this division. Some examples of these activities requiring adherence to full hazardous waste management requirements for these specific RCRA hazardous wastes might include discharging batteries to remove the electric charge, regenerating used batteries, or removing electrolyte from batteries.

These amendments are necessary to allow destination facilities to conduct these specific management activities, which are considered lower risk activities. These management activities are also required to be conducted in accordance with existing requirements and safeguards found in article 3 of this chapter. These proposed changes will facilitate the proper recycling and management of these specific universal wastes at destination facilities without the application of the more stringent hazardous waste management requirements as is currently required for destination facilities pursuant to existing requirements of chapters 11, 14 and 15 of this division.

Subsection (c) is amended to allow storage pursuant to requirements of chapter 23 (i.e., up to one year pursuant to section 66273.35) for certain universal wastes prior to treatment of those universal wastes (i.e., universal waste that are non-RCRA hazardous wastes). Some examples of these universal wastes that are non-RCRA hazardous waste include universal wastes generated by households and/or CESQUWGs. These two entities are excluded from regulation under the federal universal waste rule. The universal waste treatment activities for which this storage allowance is provided are: removing CRTs from electronic devices that are not CRT devices, disassembling electronic devices that are not CRT devices and/or removing yokes from CRTs, treating electronic devices pursuant to section 66273.73, subsection (a)(1)(A), and treating CRTs.

Amendments to this subsection further require that the universal waste handler provide in the facility's permit the location of all storage and accumulation areas for universal waste. Facilities conducting these activities are also required to request a Class 1 modification to their facility permit in accordance with section 66270.42, subsection (d), which allows for permit modifications not listed in existing regulations (in appendix I of chapter 20). These amendments are necessary to provide certain universal waste handlers with more flexible storage time limits so that treatment activities can be conducted as necessary for economies-of-scale (e.g., larger volumes of universal wastes may be accumulated prior to treatment so that shredding equipment is used more efficiently). These proposed changes will facilitate the proper recycling and management of these specific universal wastes at destination facilities without the application of the more stringent hazardous waste management requirements as is currently required for destination facilities pursuant to existing requirements of chapters 11, 14 and 15 of this division.

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

Subsection (a) is added to clarify that a universal waste handler who treats universal waste is subject to all applicable requirements of chapters 14, 15, 16, 18, 20 and 22 of this division, except as otherwise provided in subsections (b), (c), and (d) of this section.

Subsection (b) is added to clarify that article 7 of these proposed regulations authorizes universal waste handlers to perform only limited treatment for purposes of recycling electronic devices, the components of electronic devices, CRTs and CRT glass. **Subsection (b)** also clarifies that this treatment authorization is conditioned on the handler complying with the applicable requirements identified in **subsection (b)**. Finally, **subsection (b)** clarifies that this authorization shall not be deemed to be one of the forms of authorization specified in subsections (b)(1), (b)(2) or (b)(3) of this section.

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

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

Subsection (c)(3)(A) authorizes the limited treatment of “residual printed circuit boards” pursuant to article 7. In this context, a residual printed circuit board means a printed circuit board that a universal waste handler has derived from an electronic device as a result of onsite activities authorized by article 7. Residual printed circuit boards do not include printed circuit boards accepted by a universal waste handler from offsite sources. Printed circuit boards accepted from offsite sources are typically classified as “exempt scrap metal” and may have been removed from electronic equipment undergoing repair or from other types of equipment, or determined to be defective parts from the manufacture of circuit boards.

Subsection (d) is added to clarify that when a universal waste handler has to treat a universal waste generated as a consequence of responding to a release, that universal

waste handler is exempt from the hazardous waste permit requirements contained under chapter 14 through 16, 18, 20 and 22. In this case, the universal waste handler will comply with applicable sections of chapter 12 (hazardous waste generator standards) and chapter 23.

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

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

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

This section is also amended to clarify how treatment residuals derived from the authorized activities, including residual printed circuit boards, should be managed. This clarification is provided in subsections (d) through (g). Subsections (d) through (g) promote recycling of universal waste electronic devices by providing a universal waste handler who removes user-replaceable components pursuant to subsections (b) and (c) of this section with waste classification schemes that authorize the use of applicable chapter 11 (of this division) exclusions or exemptions for certain hazardous waste residuals, including residual printed circuit boards, resulting from the subsection (b) and (c) removals.

Subsection (d)(1) is added to require the universal waste handler to perform a hazardous waste determination for residuals that are derived from the activities authorized by subsections (b) and (c) of this section. This requirement is necessary to identify residuals potentially subject to further regulation by DTSC pursuant to chapter 11 of this division.

Subsections (d)(1)(A) and (d)(1)(B) are added to deem the universal waste handler the generator of the residuals determined to be hazardous waste and to require the handler to manage these residuals pursuant to the applicable requirements of this division, except as otherwise provided in subsections (e) and (f) of this section.

Subsection (e) is added to authorize the handler to manage any residual determined to be a hazardous waste, except a residual printed circuit board, pursuant to any applicable exemption or exclusion from regulation provided in chapter 11 of this division. This authorization is necessary to clarify when these residuals are no longer subject to regulation by DTSC. The exemptions or exclusions may include classification of the residuals as scrap metal, as provided in section 66261.6, subsection (a)(3)(B). Residual printed circuit boards determined to be hazardous waste shall be managed pursuant to proposed subsection (f) of this section.

Subsection (f) is added to provide the management requirements for residual printed circuit boards determined to be hazardous waste. **Subsections (f)(1) and (f)(2)** prescribe the management requirements for these circuit boards that are to be further treated pursuant to proposed section 66273.73. **Subsection (f)(1)** prescribes the containment and labeling requirements for residual printed circuit boards which are necessary to prevent a release to the environment (i.e., a release of a hazardous constituent to air, water, or soil) prior to their treatment pursuant to proposed section 66273.73.

Subsection (f)(2) is added to require that a universal waste handler who conducts any subsequent treatment activity authorized in proposed section 66273.73 on a hazardous waste residual printed circuit board resulting from subsection (a) activities, shall conduct those subsequent activities pursuant to proposed section 66273.73, subsections (a)(1) and/or (a)(2), as applicable for residual printed circuit boards. This amendment is necessary to clarify the additional management requirements that apply when further treatment pursuant to proposed section 66273.73 is conducted on removed residual printed circuit boards determined to be hazardous waste.

Subsection (f)(3) is added to address residual printed circuit boards determined to be hazardous wastes, but not to be further treated pursuant to proposed section 66273.73. The universal waste handler is required to manage these printed circuit boards pursuant to proposed section 66273.75, subsection (c). This amendment is necessary to clarify the waste classification process that the handler must follow to determine if the printed

circuit boards may be managed as exempt scrap metal pursuant to existing section 66261.6, subsection (a)(3)(B) and proposed sections 66260.10 and 66273.9 (definition of “scrap metal”).

Subsection (g) is added to clarify the authorization requirements that apply to further treatment of any residual generated as a result of subsection (b) and (c) activities, determined to be a hazardous waste, and not exempted or excluded from DTSC regulation pursuant to the waste classification scheme prescribed in subsections (d) and (e), (f)(2), or (f)(3), as applicable. Specifically, the universal waste handler may not conduct further treatment of such residuals unless the handler has obtained appropriate authorization from DTSC (e.g., hazardous waste facility permit, or other grant of authorization). These forms of authorization are not provided for under chapter 23 of this division.

~~**Subsection (d)** had been added to prohibit any disassembly or draining activities, unless those activities are authorized pursuant to section 66273.72. This subsection is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.~~

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

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

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

Add Section 66273.72, Authorization for Disassembling/Draining Activities: This section is necessary to accomplish the purposes of article 7 because it creates a self-implementing authorization for handlers who conduct disassembly and/or draining activities. Examples of disassembly activities include physically separating components from electronic devices manually (e.g., using hand tools), such as removing a swivel base from an electronic device that is a CRT device. This section also specifies the

appropriate management standards for the different levels of treatment within this category of authorized treatment. In addition, where the text of the proposed regulations required that actions be taken in the event of a release, clarifying language has been added to limit the intent of “release” to releases to the environment (e.g., a release of a hazardous constituent to soil, air or water) under reasonably foreseeable conditions. In such cases, the universal waste handler should plan for changing conditions where universal wastes, or their constituents, can be released to the environment.

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

~~**Subsection (a)(2)** further prohibits a handler conducting activities pursuant to this section from engaging in any treatment activities prescribed in subsection 66273.73(c) (e.g., shredding, cutting, sawing electronic devices). This amendment is necessary to limit the onsite activities conducted pursuant to this section to only those universal waste handlers authorized to conduct further treatment.~~

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

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

This section is also amended to clarify how treatment residuals derived from the authorized activities, including residual printed circuit boards, should be managed. This clarification is provided in subsections (a)(2) through (a)(7). Subsections (a)(2) through (a)(7) promote recycling of universal waste electronic devices by providing a universal waste handler who conducts any of the activities identified in subsection (c) of this section with waste classification schemes that authorize the use of applicable chapter

11 (of this division) exclusions or exemptions for certain hazardous waste residuals, including residual printed circuit boards, resulting from these activities.

Subsection (a)(2) is added to require the universal waste handler to perform a hazardous waste determination for residuals that are derived from the activities identified in subsection (c) of this section. This requirement is necessary to identify residuals potentially subject to further regulation by DTSC pursuant to chapter 11 of this division.

Subsections (a)(2)(A) and (a)(2)(B) are added to deem the universal waste handler the generator of the residuals determined to be hazardous waste and to require the handler to manage these residuals pursuant to the applicable requirements of this division, except as otherwise provided in subsections (a)(3), (a)(4), (a)(6), or (a)(7) of this section.

Subsection (a)(3) is added to authorize the handler to manage any residual determined to be a hazardous waste, except a residual printed circuit board, pursuant to any applicable exemption or exclusion from regulation provided in chapter 11 of this division. This authorization is necessary to clarify when these residuals are no longer subject to regulation by DTSC. The exemptions or exclusions may include classification of the residuals as scrap metal, as provided in section 66261.6, subsection (a)(3)(B). Residual printed circuit boards determined to be hazardous waste shall be managed pursuant to proposed subsections (a)(4), (a)(5) or (a)(6) of this section, as applicable.

Subsection (a)(4) and (a)(5) are added to provide the management requirements for residual printed circuit boards determined to be hazardous waste and to be further treated pursuant to proposed section 66273.73. **Subsection (a)(4)** prescribes the containment and labeling requirements for residual printed circuit boards which are necessary to prevent a release to the environment (i.e., a release of a hazardous constituent to air, water, or soil) prior to their treatment pursuant to proposed section 66273.73.

Subsection (a)(5) is added to require that a universal waste handler who conducts any subsequent treatment activity authorized in proposed section 66273.73 on a hazardous waste residual printed circuit board resulting from the activities identified in subsection (c) of this section shall conduct those subsequent activities pursuant to proposed section 66273.73, subsections (a)(1) and/or (a)(2), as applicable for residual printed circuit boards. This amendment is necessary to clarify the additional management requirements that apply when further treatment pursuant to proposed section 66273.73 is conducted on removed residual printed circuit boards determined to be hazardous waste.

Subsection (a)(6) is added to address residual printed circuit boards determined to be hazardous wastes, but not to be further treated pursuant to proposed section 66273.73.

The universal waste handler is required to manage these printed circuit boards pursuant to proposed section 66273.75, subsection (c). This amendment is necessary to clarify the waste classification process that the handler must follow to determine if the printed circuit boards may be managed as exempt scrap metal pursuant to existing section 66261.6, subsection (a)(3)(B) and proposed sections 66260.10 and 66273.9 (definition of “scrap metal”).

Subsection (a)(7) is added to clarify the authorization requirements that apply to further treatment of any residual generated as a result of the activities identified in subsection (c) of this section, determined to be a hazardous waste, and not exempted or excluded from DTSC regulation pursuant to the waste classification scheme prescribed in subsections (a)(2) and (a)(3), (a)(5) or (a)(6), as applicable. Specifically, the universal waste handler may not conduct further treatment of such residuals unless the handler has obtained appropriate authorization from DTSC (e.g., hazardous waste facility permit, or other grant of authorization). These forms of authorization are not provided for under chapter 23 of this division.

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

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

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

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

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

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

Add Section 66273.73, Authorization for Treatment (Processing) Activities: This section is necessary to accomplish the purposes of proposed article 7 as it establishes “self-implementing authorization” for handlers who conduct the types of authorized treatment described in this section. The CRT treatment activities described in

subsection (b) are relocated from existing section 66273.83. This relocation does not materially alter the requirements, rights, responsibilities, conditions, or prescriptions contained in the current regulations.

Subsection (a) This section will create the authorized treatment standards for handlers who treat universal waste electronic devices and/or residual printed circuit boards for which the handler is deemed the generator pursuant to authorization by sections 66273.71 (removal activities) and/or 66273.72 (dismantling activities). Two categories of electronic device and residual printed circuit board treatment are delineated. The first category of treatment [**subsection (a)(1)**] produces residuals that are classified as scrap metal and/or universal wastes that are otherwise exempted from regulations as hazardous waste. The second category of treatment [**subsection (a)(2)**] produces residuals that are regulated as hazardous wastes.

In addition, this section will authorize a universal waste handler to treat, pursuant to this section, residual printed circuit boards derived from section 66273.71 or 66273.72 onsite activities (the universal waste handler is deemed the generator of these residual printed circuit boards). Pursuant to proposed sections 66273.71, subsections (e) and (f)(2) and 66273.72, subsections (a)(3) and (5), a universal waste handler who performs such treatment may not classify residual printed circuit boards as exempt scrap metal until that handler has made that determination pursuant to section 66273.75, subsection (c)(1)(C).

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

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

This section also specifies the appropriate management standards for the different levels of treatment. The standards for treatment (i.e., self-implementing authorized treatment) are necessary to ensure that treatment is performed safely by handlers who do not possess the hazardous waste facility permits they would otherwise be required to

obtain. DTSC establishes this form of self-implementing authorization because a full or standardized hazardous waste facility permit is not commensurate with the hazards posed by treating the universal waste allowed pursuant to the standards specified in this section.

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

Subsection (a)(1)(C)

- Notification reporting and recordkeeping – These requirements are necessary so that DTSC can identify and inspect these handlers. See also Notification and reporting standards described in section 66273.74, see below.
- Treatment Standards described in section 66273.75, see below.

Subsection (a)(2)(C)

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

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

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

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

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

Subsection (d) is added to clarify the regulatory requirements that apply to a universal waste handler authorized pursuant to this section when the handler recycles scrap metal using one or more of the methods described in subsection (c) of this section. Scrap metal may include residual printed circuit boards derived from electronic devices that have been determined to be scrap metal by an authorized universal waste handler pursuant to the handler's obligation to classify residual printed circuit boards pursuant to section 66273.75, subsection (c). This obligation is imposed on the handler by section 66273.71, subsection (f)(3), section 66273.72, subsection (a)(6), and subsection (a)(1)(C) of this section.

Scrap metal may also include the items identified in subsection (a)(4) of the definition of "scrap metal" as proposed in section 66260.10. These items include printed circuit boards accepted from offsite. Subsection (d) clarifies that these items may be managed by a universal waste handler authorized pursuant to this section using one or more of the treatment methods described in subsection (c) of this section without regulation under this division.

This subsection allows an authorized universal waste handler to recycle scrap metal using one or more of the treatment methods described in subsection (c) of this section in addition to the authorized treatment of electronic devices. This is needed to realize the full benefits of the Electronic Waste Recycling Act of 2003 as it provides for the onsite recycling of all residual printed boards derived from covered electronic devices using the treatment methods authorized by this section.

Add Section 66273.74, Notification, Annual Reporting, and Recordkeeping: This new section is necessary to accomplish the purposes of proposed article 7 as it describes the notification and reporting requirements necessary to perform authorized treatment without a hazardous waste facility permit, or other grant of authorization from DTSC.

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

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

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

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

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

waste handler should plan for changing conditions where universal wastes, or their constituents, can be released to the environment.

This section is amended to clarify that residual printed circuit boards are the only section 66273.71 or 66273.72 treatment residuals that may be subject to authorized treatment pursuant to 66273.73.

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

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

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

Subsections (a)(8) and (c)(2) have been amended to clarify that all CRT glass, including all CRT glass-residuals (those residuals generated from the treatment of electronic devices and CRTs), be recycled either at a CRT glass manufacturer or at a primary or secondary lead smelter.

Subsections (c)(1)(A) through (c)(1)(D) are necessary to ensure that a universal waste handler who produces residuals from treating electronic devices and/or CRTs pursuant to subsection (f)(3) of section 66273.71, subsection (a)(6) of section 66273.72, or this section properly classifies and manages those residuals in accordance with the applicable requirements of this division.

Subsection (c)(1) is added to require the universal waste handler to perform a hazardous waste determination for residuals that are derived from the activities

authorized by subsection (a) of this section. This requirement is necessary to identify residuals potentially subject to further regulation by DTSC pursuant to chapter 11 of this division.

Subsections (c)(1)(A) and (c)(1)(B) are added to deem the universal waste handler the generator of the residuals determined to be hazardous waste and require the handler to manage these residuals pursuant to the applicable requirements of this division, except as otherwise provided in subsection (c)(1)(C) of this section.

Subsection (c)(1)(C) is added to authorize the handler to manage any residual determined to be a hazardous waste pursuant to any applicable exemption or exclusion from regulation provided in chapter 11 of this division. This authorization is necessary to clarify when these residuals are no longer subject to regulation by DTSC. The exemptions or exclusions may include classification of the residuals as scrap metal, as provided in section 66261.6, subsection (a)(3)(B).

Subsection (c)(1)(D) is added to clarify the authorization requirements that apply to further treatment of any residual generated as a result of subsection (a) activities, which have been determined to be a hazardous waste and not exempted or excluded from DTSC regulation pursuant to the waste classification scheme prescribed in subsections (c)(1)(A), (c)(1)(B) and (c)(1)(C) of this section. Specifically, the universal waste handler may not conduct further treatment of such residuals unless the handler has obtained appropriate authorization from DTSC (e.g., hazardous waste facility permit, or other grant of authorization). These forms of authorization are not provided for under chapter 23 of this division.

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

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

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

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

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

Subsection (a)(1) is necessary to specify the elements of the closure plan. In addition, the closure plan shall be developed to reflect when the extent of operations is at the facilities' maximum capacity. This will ensure that cost estimates for closure include the cost to cleanup the facility when all the universal treatment units and associated areas are in full use, and when the maximum inventory is managed. For purposes of this subsection, treatment units include universal waste treatment units that also treat residual printed circuit boards that have been determined to be exempt scrap metal pursuant to section 66273.71, subsection (e), section 66273.72, subsection (a)(3), and section 66273.75, subsection (c)(1)(C). To develop closure estimates in this way ensures that the full amount for cleanup is included in the financial responsibility and assurance mechanisms used for these facilities. Also, to develop closure cost estimates to reflect the most expensive closure scenarios provides sufficient funding should the universal waste handler not be able to complete closure and when a third party may have to be used to complete closure.

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

Subsection (a)(3) is necessary to facilitate unannounced inspections of the facilities by DTSC inspectors. If the closure plans were not maintained onsite, DTSC inspectors

would be unable to determine compliance status with subparagraph (a)(1). The emergency regulations currently do not require handlers to submit the closure plans to DTSC. Therefore, under the emergency regulations currently adopted, DTSC is unable to evaluate whether the cost estimates for closure are reasonable and realistic.

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

Subsection (b) is necessary to provide handlers guidance for preparing closure cost estimates [and developed in alignment with the closure plan developed under subparagraph (a)(1)]. Although these standards are referenced in the emergency regulations currently adopted for handlers who treat universal waste electronic devices and for handlers who treat CRTs, in the proposed regulations DTSC has repealed the references to the chapter 15 requirements.² Instead, these proposed regulations include only those standards applicable to the electronic waste recyclers in article 7. Clearly listing these standards where electronic waste handlers who treat (e.g., recycle) can readily locate the standards is necessary to facilitate implementation and compliance. This section also includes in the description of the estimated maximum inventory on which to base the closure cost estimate, the universal waste handler will exclude residual printed circuit boards (and/or residuals thereof), that have been determined to be exempt scrap metal pursuant to section 66273.71, subsection (e), section 66273.72, subsection (a)(3), and section 66273.75, subsection (c)(1)(C). This exclusion is necessary as these specifically-exempted residual printed circuit boards are managed as scrap metal, and thus not considered in the calculation of maximum inventories of wastes at the time of closure.

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

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

² “Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities”

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

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

These notifications are necessary to provide DTSC with accurate information on the operational status (i.e., active or inactive) of the entities that treat (or recycle) universal waste electronic devices. This information will be used to track the operations of the universal waste handlers who treat for enforcement purposes under the Electronic Waste Recycling Act of 2003. The closure notice is also necessary so that DTSC may release the handler's financial assurance mechanism when it is no longer necessary, and so that DTSC may perform an inspection to ensure that proper closure activities were performed adequately.

Subsection (a) requires that a universal waste handler who conducts treatment activities authorized pursuant to section 66273.73, subsections (a)(2) or (b) notify DTSC when that handler intends to close a universal waste treatment facility or a universal waste treatment unit (as defined in proposed §66273.9). The universal waste treatment units for which closure notification is required include those treatment units used to treat residual printed circuit boards that have been determined to be exempt scrap metal pursuant to section 66273.71, subsection (e), section 66273.72, subsection (a)(3) or section 66273.75, subsection (c)(1)(C). This subsection is necessary to ensure that DTSC obtains accurate information on treatment units, and that DTSC is provided the date of closure and when closure activities will be completed. This information is necessary to facilitate and coordinate DTSC inspection activities.

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

Subsection (b)(1) provides that DTSC notify the handler within 60 calendar days after DTSC conducts the activities described in this subsection in order to inform the handler whether they are required to continue to maintain financial assurance for closure. This timeframe is necessary to allow DTSC to conduct the oversight activities prescribed in

this section (e.g., evaluate whether closure is complete through a facility inspection or through the evaluation of facility sampling data), and to provide the handler with sufficient information should DTSC determine that closure is not complete and as described in subsection (b)(2) of this section.

LOCAL MANDATE DETERMINATION

DTSC has determined that the proposed regulations impose no mandates on local agencies or school districts.

ALTERNATIVES DETERMINATION

DTSC has determined that no alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

DTSC has made a determination that provisions of this rulemaking will have a positive effect on small businesses. The proposed regulations will continue to allow small businesses to avoid the high compliance costs associated with managing waste electronic devices as hazardous wastes, i.e., hazardous waste disposal costs.

ECONOMIC IMPACT ON BUSINESS DETERMINATION

DTSC has determined that the regulatory action will not have a significant adverse economic impact on business, including the ability to compete with businesses in other states, because the rulemaking provides businesses with an alternative authorization that provides cost avoidance compared to the current authorization.

BUSINESS REPORT DETERMINATION

California Code of Regulations, title 22, division 4.5, section 66273.74 of this rulemaking requires that universal waste handlers who dismantle or treat any universal waste electronic devices shall, by February 1 of each calendar year, submit a report to DTSC. Such information will include: (1) the facility name and address, name and telephone number of a contact person, an identification number (if issued), the total quantity by count or weight of universal waste electronic devices and/or CRTs treated or recycled, (2) a list of businesses to which the universal waste handler shipped metal, yokes, universal wastes, and exempt materials during the previous year, and the quantities of each, (3) a list of businesses to which the universal waste handler shipped CRT glass during the previous year, and the quantities shipped, and (4) a list of CRT manufacturers or primary or secondary lead smelters to which the universal waste handler shipped CRT glass during the previous year.

In accordance with Government Code section 11346.3, subdivision (c), DTSC hereby makes a finding that such reports by businesses are necessary for the health and safety of the people of California.

INCORPORATED BY REFERENCE

The 45-day public notice listed the following documents as incorporated by reference:

European Union Directive 2002/95/EC, "Restriction of the use of certain hazardous substances in electrical and electronic equipment," January 27, 2003.

European Union Directive 2005/618/EC, "Establishing the maximum concentration values for certain hazardous substances in electrical and electronic equipment," August 18, 2005, or as amended thereafter by the Commission of European Communities.

However, the Department has determined that the above documents are not incorporated by reference. Statute requires the Department to adopt regulations to prohibit the sale of an electronic device in California if that electronic device is prohibited from being sold in the European Union due to the presence of heavy metals (Health & Saf. Code, § 25214.10). It is not the Department's intention to make the entire provisions of these European Union Directive amendments part of these regulations by reference to these European Directive amendments.

SUMMARY AND RESPONSE TO COMMENTS

The attached documents provide the summary and response to comments received for the initial 45-Day Public Notice and Comment Period and the 15-Day Public Notice and Comment Period for Post-Hearing Changes.