

STATE OF CALIFORNIA  
**Budget Change Proposal - Cover Sheet**  
 DF-46 (REV 03/13)

Fiscal Year 2014-15	BCP No. 4	Org. Code 3960	Department Toxic Substances Control (DTSC)	Priority No. 4
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Program 13-Hazardous Waste Management Program	Element	Component
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Proposal Title  
 Improving Permitting Processes

Proposal Summary  
 The Department of Toxic Substances Control (DTSC) requests eight (8.0) two-year limited term positions and \$1.191 million funded from the Hazardous Waste Control Account to address its backlog of permitting work, ensure closure cost estimates are updated and adequate financial assurances are in place for hazardous waste treatment, storage and disposal facilities. This proposal will reduce DTSC's permit backlog. In addition, the proposal will allow DTSC to update cost estimates for the closure and post-closure of hazardous waste facilities that are out of date, until regular updates can be done as part of ongoing permit review activities.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
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Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
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For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the California Technology Agency, or previously by the Department of Finance.  
 FSR     SPR                      Project No.                                      Date:

If proposal affects another department, does other department concur with proposal?     Yes     No  
*Attach comments of affected department, signed and dated by the department director or designee.*

Prepared By	Date	Reviewed By <i>Sara Lewon</i>	Date <i>1/6/2014</i>
Department Director <i>Deborah D. Raphael</i>	Date <i>1/6/14</i>	Agency Secretary <i>[Signature]</i>	Date <i>1/7/14</i>

**Department of Finance Use Only**

Additional Review:     Capital Outlay     ITCU     FSCU     OSAE     CALSTARS     Technology Agency

BCP Type:                       Policy                       Workload Budget per Government Code 13308.05

PPBA	Date submitted to the Legislature
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**Fiscal Summary**  
(Dollars in thousands)

BCP No.	Proposal Title	Program				
4	Improving Permitting Processes	13-Hazardous Waste Mngmt				
Personal Services	Positions			Dollars		
	CY	BY	BY + 1	CY	BY	BY + 1
Total Salaries and Wages <sup>1</sup>		8.0	8.0		\$670	\$670
Total Staff Benefits <sup>2</sup>					285	285
<b>Total Personal Services</b>	0.0	8.0	8.0	\$0	\$955	\$955
<b>Operating Expenses and Equipment</b>						
General Expense					56	56
Printing						
Communications					8	8
Postage						
Travel-In State					40	40
Travel-Out of State						
Training					16	16
Facilities Operations					64	64
Utilities						
Consulting & Professional Services: Interdepartmental <sup>3</sup>						
Consulting & Professional Services: External <sup>3</sup>						
Data Center Services					16	16
Information Technology					24	0
Equipment <sup>3</sup>						
Other/Special Items of Expense: <sup>4</sup>						
Health & Safety supplies for field staff (6)					12	12
<b>Total Operating Expenses and Equipment</b>				\$0	\$236	\$212
<b>Total State Operations Expenditures</b>				\$0	\$1,191	\$1,167
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund						
Special Funds <sup>5</sup>	3960	001	0014		\$1,191	\$1,167
Federal Funds						
Other Funds (HWCA)						
Reimbursements						
<b>Total Local Assistance Expenditures</b>				\$0	\$0	\$0
Fund Source	Item Number					
	Org	Ref	Fund			
General Fund						
Special Funds <sup>5</sup>						
Federal Funds						
Other Funds (Specify)						
Reimbursements						
<b>Grand Total, State Operations and Local Assistance</b>				\$0	\$1,191	\$1,167

<sup>1</sup> Itemize positions by classification on the Personal Services Detail worksheet.

<sup>2</sup> Provide benefit detail on the Personal Services Detail worksheet.

<sup>3</sup> Provide list on the Supplemental Information worksheet.

<sup>4</sup> Other/Special Items of Expense must be listed individually. Refer to the Uniform Codes Manual for a list of standard titles.

<sup>5</sup> Attach a Fund Condition Statement that reflects special fund or bond fund expenditures (or revenue) as proposed.



## Supplemental Information

(Dollars in thousands)

BCP No. 4	Proposal Title Improving Permitting Processes
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Equipment	CY	BY	BY +1
			0
<b>Total</b>	\$0	\$0	\$0

Consulting & Professional Services	CY	BY	BY +1
<b>Total</b>	\$0	\$0	\$0

Facility/Capital Costs	CY	BY	BY +1
<b>Total</b>	\$0	\$0	\$0

**One-Time/Limited-Term Costs**      Yes       No

Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Info Tech (PC)		24		0		0
LT Positions	8.0	955	8.0	955	0.0	0
LT OE&E		212		212		0
	8.0	\$1,191	8.0	\$1,167	0.0	\$0

**Full-Year Cost Adjustment**      Yes       No

*Provide the incremental change in dollars and positions by fiscal year.*

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
<b>Total</b>	0.0	\$0	0.0	\$0	0.0	\$0

**Future Savings**      Yes       No

*Specify fiscal year and estimated savings, including any decrease in positions.*

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
<b>Total</b>	0.0	\$0	0.0	\$0	0.0	\$0

## Analysis of Problem

### A. Proposal Summary

This proposal requests \$1.191 from the Hazardous Waste Control Account (HWCA) that will provide significant improvements to the Department of Toxic Substance Control's (DTSC) hazardous waste facility permitting processes: 1) To respond to a significant and growing backlog in permit applications, DTSC requests six (6.0) two-year limited term positions to reduce the number of continued (or backlogged) permits; and 2) to update cost estimates to ensure that needed funds will be available in the future to pay for the decontamination and decommissioning of hazardous waste facilities, DTSC requests two (2.0) two-year limited term positions to update cost estimates that govern the amount of financial resources facilities must set aside to be available to pay closure or post-closure costs if the operator becomes unable to pay or the facilities are abandoned.

### B. Background/History

Permitting Backlog –DTSC uses hazardous waste permits to ensure that hazardous waste facilities can be safely operated. A hazardous waste facility permit (permit) is a set of detailed site specific requirements that is the result of an evaluation of all aspects of a facility (its physical plant, personnel, wastes being managed, chemical processes being employed, and health and safety measures). All of these are evaluated and permit conditions approved based on the circumstances that exist at the time the permit was issued. DTSC has issued hazardous waste permits to 89 operating facilities that handle hazardous waste, and another 28 post-closure permits to facilities that no longer have active hazardous waste operations except for monitoring of previously disposed waste.

DTSC currently has a backlog of 24 permits operating as “continued permits” with pending permit renewal applications. The backlog is anticipated to grow to 34 pending applications by 2017. Facilities operating under continued permits are held to the standards in the original permit and current regulations and statutes and do not have the advantage of the most recent technologies, practices and safeguards to prevent releases of hazardous waste into the environment that are a part of permits which have been recently issued. In addition, assessments to identify releases of hazardous wastes from the facility will not have been conducted, potentially allowing contaminants to migrate further and possibly causing increased environmental damage and public exposure.

Cost Estimates –Financial assurance mechanisms are based on DTSC-approved cost estimates. Funds placed in these mechanisms are used to pay for the costs of deconstructing the structures and equipment utilized in the operation of the facility and to monitor any hazardous waste left in place when the facility closes. Costs are estimated based upon engineering and financial calculations and are reviewed by DTSC technical staff as part of the permit review process or whenever significant operation changes are proposed by the facility.

The cost estimates for closure and corrective action at 40 permitted facilities have not been updated in over 5 years. If these facilities fail to set aside sufficient funds, there would be no funds available if the facilities become insolvent and unable to pay for decommissioning and decontaminating the facility. In that case, DTSC and not the permitted facility would need to seek other funds to pay those costs, likely from the General Fund or other funds from other California feepayers or taxpayers.

## Analysis of Problem

### Permitting Resource History (Dollars in thousands)

Program Budget	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Authorized Expenditures	2,835	3,200	3,823	3,526	3,586
Actual Expenditures	2,270	2,475	3,096	3,387	3,586
Revenues (Activity Fee)	517	332	402	356	293
Revenues (Federal Grant)	682	711	858	1,182	1,863
Authorized Positions	25.8	28.7	32.9	30.9	27.5
Filled Positions	24.4	23.7	28.0	27.9	27.5
Vacancies	1.4	5.0	4.9	3.0	0

### Permitting Workload History

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Permit Issuance (or denial)	11	7	8	3	4
Permit modifications (class 2&3)	2	3	4	5	5
Permit Modifications (class 1)	5	10	10	10	10
Emergency permits/variances	11	15	4	7	7
Closure verifications	3	5	4	4	5
PY Represented by % of Permit Issuance Relative to authorized positions.	8	7	7	3	4
The presented figures are not intended to imply that each PY works exclusively on a single permit application per year. Each PY is assigned to work on multiple permit applications simultaneously.					

## C. State Level Considerations

**Permitting Backlog** - This proposal would improve DTSC's ability to carry out its permitting responsibilities. Improving the permit issuance process aligns with Goal 2 of DTSC's Strategic Plan:

Goal 2: Effectively, efficiently, and fairly administer and enforce California's hazardous waste management laws.

2.1: Identify and implement policies and procedures to ensure hazardous waste permits are protective, timely, legally defensible, and enforceable, and to improve transparency and public confidence in permit decisions.

This proposal is also directly related to DTSC's "Fixing the Foundation Fundamentals," which proposes that DTSC "Improve efforts to ensure hazardous waste permits are protective, timely, legally defensible, and enforceable."

With the requested positions, DTSC will conduct additional permit reviews to reduce the number of continued (or backlogged) permits and will ensure that permits have the benefit of the most recent technologies, practices and safeguards to prevent releases of hazardous waste into the environment.

**Cost Estimates** - This proposal would support DTSC's ability to carry out its permitting responsibilities. Ensuring that all permitted facilities have updated closure and post-closure cost estimates aligns with Goal 2 of DTSC's Strategic Plan:

## Analysis of Problem

Goal 2: Effectively, efficiently, and fairly administer and enforce California's hazardous waste management laws.

2.2: Identify and implement a process to ensure that all permitted hazardous waste facilities have accurate estimates for costs of facility closure and post-closure work, and develop and apply criteria for prioritizing closure cost reviews.

This proposal is also directly related to DTSC's "Fixing the Foundation Fundamentals," which proposes that DTSC "Maintain a strong Financial Assurance program at all permitted facilities that reflect the actual cost of closure and post-closure work, and update the estimates every five years."

With the limited term positions, DTSC will ensure that the cost estimates for closure and post-closure work will be updated and current. All future cost estimate updates will be performed during ongoing permit renewal activities conducted by existing staff and the requested permanent permitting positions.

### D. Justification

Based on DTSC's internal evaluations and external feedback about DTSC's permitting efforts, DTSC's Director commissioned a performance evaluation by California Personnel Services, a not-for-profit agency. This review evaluated the current level of performance of DTSC's permit process and documents the changes in that process in the past five years. The report identifies the strengths of the program and its processes, as well as the areas where there is an opportunity to improve. The report was completed on October 2, 2013 and can be found on DTSC's public website <http://www.dtsc.ca.gov/PermittingProcessReview.cfm>.

This proposal will allow DTSC to address the cost estimate updates and reduce the number of backlogged permits while it implements the performance and procedure improvement recommendations that will address inefficiencies in the permitting process.

#### **Reducing the Permitting Backlog to Protect Public Health and Safety**

The six requested two-year limited term positions (3.0 Hazardous Substances Engineer, 1.0 Supervising Hazardous Substances Engineer, 1.0 Senior Environmental Planner, and 1.0 Staff Attorney III) will work on the existing 24 continued permits. The additional staff will allow DTSC to complete approximately 17 of the 24 continued permits and ensure that these facilities can be safely operated and are operating with up to date safety equipment and monitoring techniques. The integrated, multi-discipline approach is key to the successful reduction of the backlog.

Permits issued by DTSC expire 10 years from the date they are issued. Much can change during those 10 years. Technological advances may improve treatment and storage procedures and safer equipment may become available. Chemical treatment processes and release prevention technologies are constantly changing and improving. Environmental monitoring techniques also are improving as new laboratory and sample collection methods are developed and implemented. More sensitive environmental measurements can allow DTSC to improve assessment of potential offsite migration of hazardous waste constituents and to reduce the risks they might pose. Continued permits which have been developed over 10 years ago do not contain any of these improvements.

Requiring safer equipment and improved procedures as part of a re-evaluated and renewed permit will provide greater protection to residents and others that live and work in the area. Where equipment upgrade is not warranted, the permit renewal process requires the facility to conduct an assessment of tanks and equipment to ensure that they can still be operated safely. The permit renewal process also includes a thorough investigation of the facility for evidence of releases of hazardous waste or hazardous waste constituents. A delay in the renewal process could allow releases to migrate further, causing increased environmental damage.

## Analysis of Problem

In addition to changes that impact the facility and its operations, many changes may have also occurred outside the facility. New residences may have been built near the facility. Community gathering areas may have been set up. Demographics of the surrounding community may have changed. The permit renewal process allows the surrounding community to interact and voice their concerns (through both the formal comment periods as well as the CEQA process) about the facility. Public feedback improves the quality and responsiveness of a permit. A continued permit will not have had the benefit of more recent community input and feedback.

### Cost Estimate Updates to Reduce Taxpayer Exposure for Underfunded Facilities

The requested (2.0) two-year limited-Term Hazardous Substances Engineer positions will work on updating cost estimates.

Approved cost estimates are the basis for the establishment of approved financial assurance mechanisms. Funds placed in these mechanisms are used to pay for the costs of deconstructing the structures and equipment utilized in the operation of the facility and to monitor any hazardous waste left in place when the facility closes. Costs are estimated based upon engineering and financial calculations and are reviewed by DTSC technical staff as part of the permit application or whenever significant operation changes are proposed by the facility.

Cost estimates are typically updated as part of the permit review and renewal process. In the long term, the added positions for permit reviews will be able to address this workload. In the short term, by providing the requested additional limited term positions, DTSC will be able ensure that the cost estimates for closure and post-closure work are updated and current. Future cost estimate updates will be programmed into ongoing permit renewal activities conducted by the permanent permitting positions.

## E. Outcomes and Accountability

### Permitting Backlog

The outcome and accountability will be measured in the number of permits issued per year.

<u>Year</u>	<u>Estimate of Permits Issued</u>
2014	8 Permits
2015	9 Permits

DTSC will require reporting and communication to the Hazardous Waste Management Program Deputy Director to ensure the appropriate use of requested resources. The reporting and communication will be in the form of the following:

- Operation Plans, a document revised annually that clearly identifies the Office of Permitting's permit issuance record for the prior year and the projected goals for the upcoming year.
- Government Performance and Result Act (GPRA) - The track record for permit issuance is closely monitored by the United States Environmental Protection Agency (U.S. EPA). DTSC continues to meet with U.S.EPA on a quarterly basis to monitor the progress. Results are posted on U.S.EPA's database.

### Cost Estimates

DTSC will monitor and track the number of cost estimates that need to be conducted, the number completed, and the number still pending through a work plan that will be developed for the two years through which the limited term positions will be in place. Staff will provide regular status reports and

## Analysis of Problem

updates to the Office of Permitting Branch Chief and the Hazardous Waste Management Program Deputy Director to ensure that the 40 out of date cost estimates are completed.

### F. Analysis of All Feasible Alternatives

**Alternative 1: Adopt this proposal to authorize 8.0 additional two-year limited term positions to work on permitting backlog and cost estimates.**

Pros:

- Reduces the current permit backlog thereby ensuring that facilities are operating safely.
- Ensures timely updates of closure cost estimates and adequate financial resources in place to reduce liability and risk to taxpayers.
- Increases compliance and protection of public health and the environment by ensuring that backlogged facilities have current permits that meet DTSC's requirements and standards.
- Provides inspectors with current permits to enforce against thus enhancing protection of public health and the environment.

Cons:

- Requires additional limited term position authority and expenditure of State funds.

**Alternative 2: Adopt a proposal to authorize 6 permanent positions to work on permitting applications and 2 limited-term positions to work on cost estimates.**

Pros:

- Increases DTSC's capabilities to issue permits/permit denials and permit modifications thereby ensuring that facilities are operating safely.
- Ensures timely updates of closure cost estimates and having adequate financial mechanisms resources in place to reduce liability and risk to taxpayers
- Increases compliance and protection of public health and the environment by ensuring that facilities have current permits that meet DTSC's requirements and standards.
- Provides inspectors with current permits to enforce against thus enhancing protection of public health and the environment.

Cons:

- Requires ongoing position authority and expenditure of State funds.

**Alternative 3: Redirect existing staff and program resources positions to work on permitting applications and cost estimates.**

Pros:

- No additional costs or positions.
- Existing staff are already familiar with the tasks and responsibilities associated with these permit related activities.

Cons:

- Other high priority projects (e.g., inspections, enforcement, and regulation development) would need to be decreased to offset the redirections.

## Analysis of Problem

### **Alternative 4: Do nothing**

#### Pros:

- No additional costs or positions.

#### Cons:

- Delays the issuance of permits/permit denials which increases DTSC's backlog of permit applications and continues to allow facilities to operate under continued permits.
- Increased concerns expressed by communities in the vicinity of facilities with continued permits regarding the protectiveness of the permits.
- Increased difficulty in compliance and enforcement due to facilities with continued permits having ambiguous terms.
- Outdated closure cost estimates increase liability to California taxpayers.

## **G. Implementation Plan**

### **4/1/14 to 7/1/14**

Prepare recruitment and interview process for the new positions in anticipation of Budget signature.

Develop processes and procedures and guidance, including tracking and performance metrics for permitting activities and closure cost estimates.

Work with the Office of Legal Affairs on model processes, procedures and guidance documents to ensure that permits to be issued are enforceable and legally defensible.

### **7/1/14 to 10/1/14**

Advertise, interview, select, and hire candidates for the newly authorized positions.

Train new staff on permitting activities and closure cost estimates.

Begin to schedule meetings with applicants of pending permits.

### **10/1/14 to 12/31/14**

Begin to conduct closure cost estimate reviews and updating.

Continue permit application review processes.

Monitor and report on progress of implementation efforts to inform DTSC management.

### **1/1/2015 to 6/30/16**

Continue implementation and monitoring of work effort.

Complete closure and post-closure estimates and work with DTSC's Financial Responsibility Unit on having updated mechanisms in place.

Make necessary adjustments to processes and procedures based on implementation experience.

Monitor and report on progress of implementation efforts to inform DTSC management.

## Analysis of Problem

### H. Supplemental Information *(Check box(es) below and provide additional descriptions.)*

None     Facility/Capital Costs     Equipment     Contracts     Other \_\_\_\_\_

### I. Recommendation

DTSC recommends adopting Alternative 1 authorizing 8.0 two-year limited term positions to work on the permitting backlog and cost estimates.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Workload Analysis Chart

BCP TITLE: Permitting Improvements

BCP PRIORITY: 4

ACTIVITY	PROJECTED PY 2014-15 & 2015-16					
	Basis/Assumption for Workload Standard	HOURS TO COMPLETE TASK	NUMBER OF TASKS	NUMBER OF HOURS NEEDED	NUMBER OF HOURS IN BASE	DIFFERENCE ADDITIONAL HOURS NEEDED
<b>3.0 Hazardous Substances Engineers</b>						
<b>Activity</b>						
<b>1) Permits Backlog:</b> Hours including the following Milestones: a) Call-in-letters b) Permit Application Review and NODs 3) Draft Permit Preparation and Public Notice 4) Permit Issuance. All tasks for the following Project Types:				-		-
a. Call-in-letters						
b. Permit Application Review and NODs						
c. Draft Permit Preparation and Public Notice						
d. Permit Issuance.						
a. Boilers and Industrial Furnaces	Based on AWP workload	1,100	1	1,100	1,100	-
b. Post Closures	Based on AWP workload	400	6	2,400	2,400	-
c. Treatment and Storage	Based on AWP workload	930	18	16,747	11,764	4,983
d. Landfills	Based on AWP workload	1,250	3	3,750	3,750	-
<b>1.0 Supervising Hazardous Substances Engineers</b>				-	-	-
<b>Activity</b>						
<b>1) Permits Backlog:</b> Oversight, Review of staff addressing Permit Backlog for the following Project Types:				-		-
a. Boilers and Industrial Furnaces	Based on AWP workload	525	1	525	525	-
b. Post Closures	Based on AWP workload	200	6	1,200	1,200	-
c. Treatment and Storage	Based on AWP workload	410	18	7,380	5,600	1,780
d. Landfills	Based on AWP workload	525	3	1,575	1,575	-
<b>1.0 Environmental Planner</b>				-	-	-
<b>Activity</b>						
<b>1) Permits Backlog:</b> CEQA support for Office of Permitting				-		-
a. Boilers and Industrial Furnaces	Based on AWP workload	65	1	65	-	65
b. Post Closures	Based on AWP workload	45	6	270	-	270
c. Treatment and Storage	Based on AWP workload	45	18	810	-	810
d. Landfills - EIRs	Based on AWP workload	225	3	675	-	675
<b>1.0 Attorney III</b>				-	-	-
<b>Activity</b>						
<b>1) Permits Backlog:</b> Legal support for Office of Permitting				-		-
a. Boilers and Industrial Furnaces	Based on AWP workload	65	1	65	-	65
b. Post Closures	Based on AWP workload	45	6	270	-	270
c. Treatment and Storage	Based on AWP workload	45	18	810	-	810
d. Landfills - EIRs	Based on AWP workload	225	3	675	-	675
<b>2.0 Hazardous Substances Engineers</b>				-	-	-
<b>Activity</b>						
<b>2) Review Cost Estimates Older than 5 years</b>				-		-
All permits with cost estimates older than 5 years	Based on AWP workload	172	20	3,440	-	3,440

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Workload Analysis Chart

BCP TITLE: Permitting Improvements

BCP PRIORITY: 4

ACTIVITY	PROJECTED PY 2014-15 & 2015-16					
	Basis/Assumption for Workload Standard	HOURS TO COMPLETE TASK	NUMBER OF TASKS	NUMBER OF HOURS NEEDED	NUMBER OF HOURS IN BASE	DIFFERENCE ADDITIONAL HOURS NEEDED
<b>TOTAL HOURS REQUIRED PER YEAR</b>				<b>41,757</b>	<b>27,914</b>	<b>13,843</b>
<b>NUMBER OF PY NEEDED (HRS/1718)</b>				<b>24.31</b>	<b>16.25</b>	<b>8.06</b>

**Note<sup>1</sup>:** 24.31 PY and 16.25 PY represent needs to conduct Permit Backlog and Cost Estimate reviews only. These numbers do not represent exiting total staff PY nor do they reflect organizational chart PY as other activities are not represented in the base hours such as: permit maintenance, permit modifications, team permit training, and executive staff support. **Note<sup>2</sup>** This table assumes PY for initial backlog permits starting 2014-15 with continued need for PY each year thereafter as permits expire as shown on Chart 1 (existing status) and Chart 2 (projections with new PY).