

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 05/11)

Fiscal Year 2013-2014	BCP No.	Org. Code 0860	Department Board of Equalization	Priority No.
Program Hazardous Substances Tax			Element 35	Component

Proposal Title
 HAZARDOUS WASTE CONTROL ACCOUNT FEE REFORM

Proposal Summary

The Board of Equalization (BOE) requests the following resources to implement the proposed changes to hazardous substances tax programs:

- Fiscal Year (FY) 2013-14: 6.8 positions and \$1,585,000
- FY 2014-15: 9.4 positions and \$1,415,000
- FY 2015-16: 9.9 positions and \$1,395,000
- FY 2016-17 and ongoing: 8.9 positions and \$1,237,000

The BOE requests direct appropriation language for funding in lieu of an interagency agreement with the Department of Toxic Substances Control. (Exhibit I)

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
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Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input 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.

Budget Officer	Date	Chief, Financial Management Division	Date
Deputy Director, Administration	Date	Executive Director	Date

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

STATE BOARD OF EQUALIZATION
Hazardous Substances Tax Program
Hazardous Waste Control Account Fee Reform
Fiscal Year 2013-2014

A. Proposal Summary

The Department of Toxic Substances Control (DTSC) proposes to modify the hazardous waste fee structure in the Hazardous Waste Control Account (HWCA) to align the fees with public policy objectives, provide a long-term stable funding source for the DTSC's Hazardous Waste Management Program, and align the fees with program objectives (see the DTSC Finance Letter No. 1 for program details). These proposed reforms have a direct impact on the Board of Equalization's (BOE) workload by expanding the universe of businesses required to pay fees and requiring quarterly reports to DTSC and the Legislature. The proposed reforms create a substantial workload that cannot be absorbed by the BOE. The BOE requests the following resources to implement the proposed reforms:

- Fiscal Year (FY) 2013-14: 6.8 positions and \$1,585,000
- FY 2014-15: 9.4 positions and \$1,415,000
- FY 2015-16: 9.9 positions and \$1,395,000
- FY 2016-17 and ongoing: 8.9 positions and \$1,237,000

The BOE requests direct appropriation language for funding in lieu of an interagency agreement with the Department of Toxic Substances Control. (Exhibit I)

B. Background/History

Currently, the BOE administers six hazardous substance tax programs for DTSC pursuant to the Hazardous Substances Tax Law: These are (1) the Environmental Fee, (2) the Facility Fee, (3) the Generator Fee, (4) the Disposal Fee, (5) the Tiered Permitting Fee, (6) and the Activity Fee. Funds are deposited into the HWCA and the Toxic Substances Control Account in the General Fund. Fees are collected from the generation and disposal of hazardous waste, the operation of hazardous waste facilities, from specified business entities that engage in activities related to hazardous materials, and, under certain circumstances, for the processing of applications by DTSC. The funds are used to support DTSC's regulation of the management of hazardous waste and to pay for the clean-up of contaminated sites.

The BOE administers the Hazardous Substances Tax Law programs through an interagency agreement with DTSC. The BOE is responsible for maintaining accounts, processing assessments and returns, collecting and depositing fees, taking action on problem or delinquent returns, issuing billings and refunds, preparing and maintaining the interagency agreement with DTSC, meeting and conferring with the DTSC, auditing accounts, resolving appeals and handling claims for refund, forwarding appeals cases based on waste reclassification to the DTSC for consideration, advising fee payers and interested persons regarding the law, and prepare reports for stakeholders.

The proposed HWCA Fee Reform will streamline the hazardous waste fee system, modify the fees to ensure the long term stability of the HWCA, and align the fees with program objectives. With regards to impact to the BOE, the proposal will eliminate the Disposal Fee and Activity Fee (estimated 130 accounts) currently administered by the BOE; revise the current tiered-rate Generator Fee to a per ton Generation and Handling Fee; and adds over 3,000 new accounts, for a total of over 9,000 accounts. The proposed reforms create an additional workload that cannot be absorbed by the BOE.

Resource History

(Dollars in thousands)

Program Budget	2010-11	2011-12	2012-13	2013-14 Proposed
Authorized Expenditures	\$4,381	\$4,431	\$4,521	\$6,289*
Actual Expenditures	\$3,312	\$4,117	NA	NA
Revenues	\$72,298	\$75,045	NA	NA
Authorized Positions	48.8	46.9	46.9	53.7*
Filled Positions	37.3	43.4	NA	NA
Vacancies	11.5	3.5	NA	NA

*Includes total for Toxic Substance Control Account (TSCA) and Hazardous Waste Control Account (HWCA).

* Includes requested BCP resources

Workload History

Workload Measure	2010-11	2011-12	2012-13	Est 2013-14
Hazardous Waste Generator Fee Accounts	6,268	6,151	6,099	9,100
Completed Audits	185	218	*134	*134
Billed Amounts (Net of Refunds)	\$2,102,886	\$2,652,934	**\$1,585,273	**\$1,585,273

*Estimate based on the average number of completed audits per auditor for the 2010-11 and 2011-12 fiscal years (67) multiplied by the number of available auditors in 2012-13 and 2013-14 fiscal years

**Estimate based on average billed revenue per audit (\$11,813) for the 2010-11 and 2011-12 fiscal years multiplied by the estimated number of audits.

C. State Level Considerations

The BOE is responsible for the administration and collection of the five hazardous substance tax programs, pursuant to the requirements of the California Hazardous Substances Tax Law.

The proposed HWCA Fee Reform will streamline the hazardous waste fee system, modify the fees to ensure the long term stability of the HWCA, and align the fees with program objectives.

This proposal is consistent with BOE's mission to serve the public through fair, effective, and efficient tax administration. Specifically, Goal 4: Enhance Operational Effectiveness through improved partnerships with other agencies.

D. Justification

Audit Examination Branch (AEB)

AEB requests 3.0 Associate Tax Auditors (ATA) to provide adequate audit coverage. The statutory changes requested by DTSC replace the current Generator Fee with a new Generation and Handling Fee that impacts the audit program in two ways. First, it will increase the number of generator fee accounts by over 3,000 by eliminating the exemption for used oil recyclers, and second, it shifts the current tiered-rate fee structure to a per ton fee. Audits are selected based on a comparison of the site specific manifests which include weight or volume (which is converted to tons) to the returns filed by the generator fee payers. Those with un-reconciled differences are further investigated by the audit staff with those with the largest dollar differences selected for audit. It is anticipated that not only the increase in number of accounts, mentioned above, but the elimination of the tiered reporting will give rise to more un-reconciled differences. For instance, currently if a fee payer's site return tonnage when compared to the manifests is within the same tier, 5 to 24 tons, 25 to 49 tons, 50 to 249 tons 250 to 499 tons, 500 to 999 tons, 1000 to 1999 tons or 2000 or more tons, the fee within these tiers remain the same and generally no further audit activity is necessary. Without the tiers, it is anticipated that there will be more discrepancies that will result in added audit activity.

In order to provide adequate audit coverage and therefore, ensure the accuracy of the returns and associated fee revenue on behalf of DTSC and the state of California, AEB requests the permanent augmentation of 3.0 ATA positions.

Although the statutory changes DTSC is pursuing will eliminate the Disposal fee and Activity fee programs, there are only 125 registered fee payers and very little to no audit activity resulting from this reporting. Elimination of the permitting activity fees has no effect on audit since billings are based on DTSC's information.

Program Policy and Administration Branch (PPAB) Workload

The PPAB requests 1.0 Business Taxes Specialist II (BTS II) on a 2 year limited term basis to implement these significant changes to the hazardous substance tax programs. The BTS II will act as Project Manager to prepare and coordinate taxpayer outreach; changes to forms and publications; oversee technological programming changes; assist with the development of program policy and procedures; act as liaison to DTSC, Legislature, and other BOE units; prepare monthly and quarterly reports; and prepare, monitor, and handle all issues with the interagency agreement with DTSC.

Compliance Branch (CB) Workload

The CB's Return Processing Section requests 1.0 Business Taxes Specialist I (BTS I) on a 2 year limited term basis to implement significant changes to the Hazardous Substance Tax programs with regard to electronic filing. The BTS I will act as the business area expert to oversee technological programming changes; assist with the development of compliance policy and procedures and to develop a training program for the BOE employees regarding electronic filing.

With the addition of over 3,000 new accounts, the CB's Return Processing Section also requests overtime funds to address ongoing workload related to compiling and verifying returns, issuing billings and refunds, processing declaration of timely mailings, working delinquencies and collection cases, and handling fee payer inquiries.

Technology Service Department (TSD) Workload

TSD requests 2.0 Staff Information Systems Analyst (SISA) and 1.5 Staff Programmer Analyst to support system changes to streamline the hazardous waste fee system, modify the fees to ensure the long-term stability of the Hazardous Waste Control Account, align the fees with program objectives, implement new eFile functionality, provide the ability for fee payers to be able to file back returns on the efile System, and provide maintenance and operations (MO) support.

To implement the new services, project staffing mix consists of redirected (existing) staff, contractor services to augment staff and provide sustainability and knowledge transfer, and new staff to be part of the start-up project implementation and then ongoing maintenance and operations to support the system changes allowing existing staff to work on current workload.

Maintenance and Operations tasks include the following:

- Respond quickly and effectively to troubleshoot system problems
- Coordinate maintenance efforts with technical and business staff
- Analysis, documentation and requirements management
- Application support: Application and defect fixes and application enhancements
- Test support: Test application fixes and enhancements
- Database and system management: Performance monitoring and tuning, data integrity and quality control, and system and security maintenance
- Job scheduling, monitoring and control
- Data analysis and change control functions
- Capacity planning
- User support
- Security maintenance

- Data backup services
- Ad hoc reports
- Form revisions

Accounting Branch Workload

Accounting Branch requests 1.0 Associate Accounting Analyst to implement the new changes and create, and prepare required reports for DTSC and for the BOE management. In addition, the position will need to work with the program staff for the changes of the daily FAC reports, reconcile the fund, and coordinate procedures for the year-end closing process including analysis of accrual information submitted by the staff of the various program areas.

**E. Outcomes and Accountability
Projected Outcomes**

Workload Measure	2013-14	2014-15	2015-16
Hazardous Waste Generator and Handling Fee Accounts	9,100	9,100	9,100
Completed Audits	*134	*234	*335
Billed Revenue	**\$1,585,273	**\$2,764,242	**\$3,957,355

* Completed audits are based on the number of available and requested ATA positions times the average number of audits each auditor completes per year. Start date for the three requested ATA positions is January 1, 2015, since the new 2014 Generation and Handling fee return is not due until the last day of February 2015.

** Estimate based on average billed revenue per audit (\$11,813) for the 2010-11 and 2011-12 fiscal years multiplied by the anticipated number of audits. Although the average per ton fee pursuant to DTSC’s suggested statutory changes drops from approximately \$50 today to \$33.39 on January 1, 2014, DTSC anticipates additional revenue resulting from eliminating the 2,000 ton cap on large generators of hazardous waste and adding approximately 3,000 new fee payers. For purposes of outcomes and billed revenue the average audit revenue remained constant.

F. Analysis of All Feasible Alternatives

Alternative 1 – Provide requested resources to successfully administer proposed HWCA reforms.

This alternative includes 9.5 positions (7.5 permanent and 2.0 limited term) and blanket funds to address associated audit, compliance, technology support, and accounting workloads that cannot be absorbed by the BOE.

Branch/Positions	2013-14	2014-15	2015-16	2016-17 & ongoing
<u>Audit Examination Branch:</u>				
Associate Tax Auditors		1.5	3.0	3.0
<u>Compliance Branch:</u>				
Business Taxes Specialist I	.5	1.0	.5	
<u>Program Policy and Administration Branch:</u>				
Business Taxes Specialist II	.5	1.0	.5	
<u>Technology Services Division:</u>				
Staff Information Systems Analyst	2.0	2.0	2.0	2.0
Staff Programmer Analyst	1.5	1.5	1.5	1.5
<u>Accounting Branch:</u>				
Associate Accounting Analyst	.5	1.0	1.0	1.0
Blanket Funds	1.8	1.4	1.4	1.4
Total Positions	6.8	9.4	9.9	8.9
Total Cost (in 000's)	\$1,585	\$1,415	\$1,395	\$1,237

Pros:

- Provides resources to efficiently administer the hazard substance tax programs.
- Provides resources to timely and efficiently collect fees and deposit them into the HWCA fund.
- Provides funding to protect the HWCA through an adequate audit presence.
- Consistent with DTSC’s goal of providing long-term funding source for Hazardous Substance Tax programs.
- Provides resources to prepare mandated reports to DTSC and Legislature.
- Provides a higher and appropriate level of customer service to fee payers.

Cons:

- Requires additional resources.

Alternative 2 – Do not provide requested resources to administer proposed HWCA reforms.

This alternative would not provide requested resources to the BOE. With the addition of over 3,000 new accounts and other program-related changes, the BOE would not be able to implement the required changes nor continue to efficiently collect and deposit fees into the HWCA.

Pros:

- No additional costs.

Cons:

- Results in delays in collecting fees and processing deposits into the HWCA.
- Does not provide funding to protect to the HWCA.
- Not consistent with DTSC’s goal of providing long-term funding source for Hazardous Substance Tax programs.
- Provides a lower level of service to feepayers due to increase in the number of accounts.
- Program changes could not be made resulting in confusion for feepayers and inefficiencies for staff.
- Lack of audits will impact program revenue and voluntary compliance.

G. Implementation Plan

Implementation of these reform measures would begin July 2013. These dates are subject to change as any delay in implementation can impact the entire schedule.

Date (approximate)	Activity
July-December 2013	Modify IAA between BOE and DTSC, unless direct appropriation is included.
	Develop project implementation plan.
	Identify potential new feepayer base.
	Send special notice to inform potential and existing feepayer base of statutory changes.
	Begin updating website, forms, and publications.
	Begin Joint Application Development meetings regarding close out of Disposal Fee and Activity Fee programs.
January –December 2014	Hire and train staff to implement reform measures.
	Implement ramp down of Disposal Fee and Activity Fee programs (close out accounts, work delinquencies, etc.)
	Begin Joint Application & Development meetings for electronic filing and new flat rate structure for new Generation and Handling Fee program.
	Begin IRIS programming, review and system testing.
	Develop staff policy and procedures.
	Begin registering new fee payers and providing fee payer advisory.
	Perform outreach for electronic filing.
	Process prepay returns and electronic filing edits.
	Prepare mandated quarterly reports to DTSC and the Legislature.
January 2015 and ongoing	Hire and train audit staff.
	Develop audit selection.
	Perform audits.
	Continue to process returns and electronic filing edits.

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

None Facility/Capital Costs Equipment Contracts Other _____

BOE will be utilizing Consulting and Professional Services to augment resources necessary for requirement gathering, design, development, testing and implementation of the solution. Stability and continuity require the contractors to be present throughout the development cycle of the solution. The contract is for the first year only and consultants will provide knowledge transfer to the requested state staff in order to provide the sustainability and knowledge transfer for ongoing maintenance and support of the system changes.

I. Recommendation

Alternative 1 is recommended and will provide the BOE with the necessary resources to administer proposed HWCA reforms.

Workload Detail

Audit Examination Branch (AEB)

AEB requests 3.0 Associate Tax Auditor positions to address the increased audit workload resulting from the addition of 3,000 Generation and Handling fee payers and the expected increase to the un-reconciled differences resulting from a per-ton fee versus a tiered tonnage fee.

The Generator Fee program's historic audit coverage was 3.24 percent with an average return of approximately \$500 per hour. There are slightly over 6,000 registered generator fee payers and AEB completed slightly over 200 audits in the 2010-11 and 2011-12 fiscal years (201/6210=.0324.) The addition of an estimated 3,000 new generator fee payer (used oil recyclers) accounts would produce over 9,100 generator fee payers. Staff would need to perform 295 audits in order to maintain the historic audit percentage. AEB believes the anticipated increase in the number of un-reconciled differences, the elimination of the cap of 2000 tons for the large generators and the historic average of \$500 per hour return per audit justifies a slight increase in audit coverage percentage to 3.68% and further supports the requested three ATA positions.

Workload Detail				
Classification: Associate Tax Auditor (ATA)	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Conducting Generation and Handling Fee Audits	H	23.8	335	7973
Total Hours				7,973
Existing ATA Positions Hours (1,600 Hours/Position)				3,200
Total Hours Remaining				4,773
Total Positions Requested (1,600 Hours/Position)				3.0

Program Policy Administration Branch (PPAB) Workload

Classification: Business Taxes Specialist II	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Taxpayer Outreach- (prepare special notices; revise forms, publications, and pamphlets; oversee clearance process; coordinate web maintenance)	H	10	10	100
Attend Joint Application Development (JAD) Meetings- (identify business needs, programming changes, perform acceptance testing, handle tickets)	H	8	150	1,200
Agency Liaison- (industry, DTSC, Legislature, other BOE units, public inquiries)	H	2	50	100
Program Support- (monthly and quarterly reports; interagency agreements, invoicing of interagency agreements)	H	20	25	500
Total Hours				1,900
Positions Requested (2 year limited term)				1.0
Overtime Hours Requested				100

Compliance Branch (CB) Workload**Return Processing Section**

Workload Detail				
Classification: Business Taxes Specialist I	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	% of Time		Total Hours
Attend Joint Application Development (JAD) meetings- (identify business needs, programming changes, perform acceptance testing, and handle tickets)	H	75%		1,350
Program Support- develop compliance program procedures and training for compliance branch employees with regard to E-filing.	H	25%		450
Total Hours				1,800
Positions Requested (2 year limited term)				1.0

Workload Detail				
Classification: Tax Technician III	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Ongoing additional work to process returns/prepayments, including comping and verifying returns, billing amounts due, refunding overpayments, investigating unapplied payments, processing Declarations of Timely Mailing and extensions. (Assumptions - 15% of returns will require handling with an average of 10 minutes per item).	M	10	720	120
Total Hours				120
Overtime Hours Requested				120

Collection Section

Workload Detail				
Classification: Tax Technician III	Time Measure		On-going Activities	
Activity	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Ongoing additional work to contact delinquent feepayers out of the approximately 3,000 new feepayers who will be added to the program. (Assumptions - it is estimated that 20% of the accounts will become delinquent, resulting in phone calls or letters, or issuance of a billing to clear the delinquency, taking approximately 15 minutes per account).	M	15	600	150
Total Hours				150
Overtime Hours Requested				150

Workload Detail				
Activity	Time Measure		On-going Activities	
	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Ongoing additional work for account receivable collections as a result of delinquent feepayers, which includes skip tracing and public advisory phone calls	H	3	300	900
Total Hours				900
Overtime Hours Requested				900

Registration and Licensing Section

Workload Detail				
Activity	Time Measure		On-going Activities	
	M=Minutes H = Hours	Time Per Occurrence	Occurrences Per Year	Total Hours
Ongoing additional work for E-registration accounts, regular account maintenance, close outs, advisory calls, and returned mail.	M	15	3700	925
Total Hours				925
Overtime Hours Requested				925

TSD Workload Detail

Staff Information Systems Analyst (SISA) –Business Analyst/Support Services

The SISA Business Analyst in TSD gathers and documents business and technical requirements for changes. The SISA Support Services in TSD provides overall project support.

Workload Detail				
Activity	Time Measure		On-going Activities	
	H=Hours	Percentage of Time Activity	Occurrences Per Year	Total Hours
Gather and document business and technical requirements and develop test plans	H	40%		1080
Provide project management	H	40%		1080
Prepare, review and manage contracts	H	5%		135
Perform job scheduling and monitoring	H	5%		135
Coordinate printing reports, distribution, media, etc.	H	5%		135
Perform production implementation	H	5%		135
Total Hours				2700
Total SISA Positions Requested (1,800 Hours/Position)				1.5

Staff Information Systems Analyst (SISA) – System Analyst/Tester

The SISA in TSD performs system integration testing and user system testing for computer system changes.

Workload Detail				
	Time Measure		On-going Activities	
Activity	H=Hours	Percentage of Time Activity	Occurrences Per Year	Total Hours
Request Analysis	H	40%		360
System Test Design and Planning	H	40%		360
System Test and Documentation	H	20%		180
Total Hours				900
Total SISA Positions Requested (1,800 Hours/Position)				0.5

Staff Programmer Analyst

TSD anticipates that the expanded electronic filing functionality allowing feepayers to electronically file not only new returns but have the ability to electronically file any prior returns increases the complexity of implementation and support.

Workload Detail				
	Time Measure		On-going Activities	
Activity	H=Hours	Percentage of Time Activity	Occurrences Per Year	Total Hours
Request Analysis	H	20%		540
Design and Documentation	H	30%		810
Construction	H	50%		1350
Total Hours				2700
Total Staff Programmer Analyst Positions Requested (1,800 Hours/Position)				1.5

Accounting Branch Workload Detail

Accounting staff will be working with program staff for changes in IRIS reports and will also be working in creating additional revenue reports and analysis of revenue.

Workload Detail				
	Time Measure		On-going Activities	
Activity	H=Hours	Percentage of Time Per Activity	Occurrences Per Year	Total Hours
Reconciling Fund, FY Accruals	H	30%		540
Request Analysis	H	20%		360
Creating reports	H	50%		900
Total Hours				1800
Total Associate Accounting Analyst Requested (1,800 Hours/Position)				1.0

EXHIBIT I (Direct Appropriation Language)

Hazardous Waste Fees

Section 25173.6 of the Health and Safety Code (text of section operative July 1, 1998) is amended to read:

25173.6. Additional deposits to the Toxic Substances Control Account. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

- (1) The fees collected pursuant to Section 25205.6.
- (2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).
- (3) Fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.
- (4) Interest earned upon money deposited in the Toxic Substances Control Account.
- (5) All money recovered pursuant to Section 25360, except any amount recovered on or before June 30, 2006, that was paid from the Hazardous Substance Cleanup Fund.
- (6) All money recovered pursuant to Section 25380.
- (7) All penalties recovered pursuant to Section 25214.3, except as provided by Section 25192.
- (8) All penalties recovered pursuant to Section 25214.22.1, except as provided by Section 25192.
- (9) All penalties recovered pursuant to Section 25215.7, except as provided by Section 25192.
- (10) Reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.
- (11) Money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).
- (12) Money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department and the State Board of Equalization for the following purposes:

- (1) The administration and implementation of the following:
 - (A) Chapter 6.8 (commencing with Section 25300), except that funds shall not be expended from the Toxic Substances Control Account for purposes of Section 25354.5.
 - (B) Chapter 6.85 (commencing with Section 25396).
 - (C) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.
 - (D) Activities of the department related to pollution prevention and technology development, authorized pursuant to this chapter.
- (2) The administration of the following units, and successor organizations of those units, within the department, and the implementation of programs administered by those units or successor organizations:
 - (A) The Human and Ecological Risk Division.
 - (B) The Environmental Chemistry Laboratory.
 - (C) The Office of Pollution Prevention and Technology Development.
- (3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).
- ~~(4) For allocation to To~~ (4) For allocation to To the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.
- (5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).
- (6) For the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of

existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by a local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars (\$500,000) in a single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8.

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.

(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) ~~For~~ To the State Board of Equalization for the administration and collection of the fees imposed pursuant to Section 25205.6.

(15) For allocation to the office of the Attorney General, pursuant to an interagency agreement or similar mechanism, for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85 (commencing with Section 25396).

(16) For funding the California Environmental Contaminant Biomonitoring Program established pursuant to Chapter 8 (commencing with Section 105440) of Part 5 of Division 103.

(17) As provided in Sections 25214.3 and 25215.7 and, with regard to penalties recovered pursuant to Section 25214.22.1, to implement and enforce Article 10.4 (commencing with Section 25214.11).

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the Office of Environmental Health Hazard Assessment and the State Department of Public Health for the purposes of carrying out their duties pursuant to the California Environmental Contaminant Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of Division 103).

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if a significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(g) The Toxic Substances Control Account established pursuant to subdivision (a) is the successor fund of all of the following:

(1) The Hazardous Substance Account established pursuant to Section 25330, as that section read on June 30, 2006.

(2) The Hazardous Substance Clearing Account established pursuant to Section 25334, as that section read on June 30, 2006.

(3) The Hazardous Substance Cleanup Fund established pursuant to Section 25385.3, as that section read on June 30, 2006.

(4) The Superfund Bond Trust Fund established pursuant to Section 25385.8, as that section read on June 30, 2006.

(h) On and after July 1, 2006, all assets, liabilities, and surplus of the accounts and funds listed in subdivision (g), shall be transferred to, and become a part of, the Toxic Substances Control Account, as provided by Section 16346 of the Government Code. All existing appropriations from these accounts, to the extent

encumbered, shall continue to be available for the same purposes and periods from the Toxic Substances Control Account.

(i) Notwithstanding Section 10231.5 of the Government Code, the department, on or before February 1 of each year, shall report to the Governor and the Legislature on the prior fiscal year's expenditure of funds within the Toxic Substances Control Account for the purposes specified in subdivision (b).

Section 25173.7 of the Health and Safety Code is amended to read:

25173.7. Appropriation of Toxic Substances Control Account funds.(a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars (\$6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (g) of Section 25205.6.

(2) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) An amount that does not exceed the costs incurred by the State Board of Equalization, ~~a private party, or other public agency,~~ to administer and collect the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) and deposited into the Toxic Substances Control Account, for the purpose of reimbursing the State Board of Equalization, ~~public agency, or private party,~~ for those costs.

(4) Commencing with the 1999–2000 fiscal year and annually thereafter, not less than one million fifty thousand dollars (\$1,050,000) for purposes of establishing and implementing a program pursuant to Sections 25244.15.1, 25244.17.1, 25244.17.2, 25244.22, and 25244.24 to encourage hazardous waste generators to implement pollution prevention measures.

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) (1) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that paragraph. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(2) Notwithstanding paragraph (1), the department may, upon the approval of the Legislature in a statute or the annual Budget Act, take either of the following actions:

(A) Reduce the amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), if there are insufficient funds in the Toxic Substances Control Account.

(B) Suspend the transfer specified in paragraph (2) of subdivision (a), if there are no orphan shares pending payment pursuant to Chapter 6.85 (commencing with Section 25396).

Section 25174 of the Health and Safety Code is amended to read:

25174. Hazardous Waste Control Account; deposits; expenditures. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

- (5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.
- (b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:
- (1) To the department for the administration and implementation of this chapter.
 - (2) ~~To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code and for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) that are deposited into the Hazardous Waste Control Account.~~
 - (3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.
 - (4) (A) To the department for allocation to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.
(B) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds allocated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and paragraph (15) of subdivision (b) of Section 25173.6. The report shall include all of the following:
 - (i) A description of cases resolved by the office of the Attorney General through settlement or court order, including the monetary benefit to the department and the state.
 - (ii) A description of injunctions or other court orders benefiting the people of the state.
 - (iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.
 - (iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.
 - (C) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.
- (5) To the department for administration and implementation of Chapter 6.11 (commencing with Section 25404).
- ~~(c) (1) Expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency agreement or similar mechanism between the department and the state agency receiving the support.
(2) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year.
(3) It is the intent of the Legislature that moneys appropriated in the annual Budget Act each year for the purpose of reimbursing the State Board of Equalization, a private party, or other public agency, for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) and deposited in the Hazardous Waste Control Account, shall not exceed the costs incurred by the State Board of Equalization, the private party, or other public agency, for the administration and collection of those fees.~~
- (d) With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall, at the time of the release of the annual Governor's Budget, also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:
- (1) The department shall identify, by permit type, the projected allocations of budgets and staff resources for hazardous waste facilities permits, including standardized permits, closure plans, and postclosure permits.
 - (2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the following types of regulated facilities and activities:
 - (A) Hazardous waste facilities operating under a permit or grant of interim status issued by the department, and generator activities conducted at those facilities. This information shall be reported by permit type.
 - (B) Transporters.
 - (C) Response to complaints.
 - (3) The department shall identify the projected allocations of budgets and staff resources for both of the following activities:
 - (A) The registration of hazardous waste transporters.
 - (B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation and corrective action, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

- (A) Investigations and removal and remedial actions at military bases.
- (B) Voluntary investigations and removal and remedial actions.
- (C) State match and operation and maintenance costs, by site, at joint state and federally funded National Priority List Sites.
- (D) Investigation, removal and remedial actions, and operation and maintenance at the Stringfellow Hazardous Waste Site.
- (E) Investigation, removal and remedial actions, and operation and maintenance at the Casmalia Hazardous Waste Site.
- (F) Investigations and removal and remedial actions at nonmilitary, responsible party lead National Priority List Sites.
- (G) Preremedial activities under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).
- (H) Investigations, removal and remedial actions, and operation and maintenance at state-only orphan sites.
- (I) Investigations and removal and remedial actions at nonmilitary, non-National Priority List responsible party lead sites.
- (J) Investigations, removal and remedial actions, and operation and maintenance at Expedited Remedial Action Program sites pursuant to Chapter 6.85 (commencing with Section 25396).

(K) Corrective actions at hazardous waste facilities.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

- (A) Determinations pertaining to the classification of hazardous wastes.
- (B) Determinations for variances made pursuant to Section 25143.
- (C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to do all of the following:

- (A) Identify, remove, store, and dispose of, suspected hazardous substances or hazardous materials associated with the investigation of clandestine drug laboratories.
- (B) Respond to emergencies pursuant to Section 25354.
- (C) Create, support, maintain, and implement the railroad accident prevention and immediate deployment plan developed pursuant to Section 7718 of the Public Utilities Code.

(7) The department shall identify projected allocations of budgets and staff resources for the administration and implementation of the unified hazardous waste and hazardous materials regulatory program established pursuant to Chapter 6.11 (commencing with Section 25404).

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

~~(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds which are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:~~

~~(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.~~

~~(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.~~

~~(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment,~~

~~and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.~~

~~(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.~~

~~(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).~~

~~(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.~~

~~(j) (e) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.~~

~~(k) (f) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars (\$1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.~~

DF-46 (REV 05/11)

Fiscal Summary
(Dollars in thousands)

BCP No.	Proposal Title	Program
May Revise 1	HAZARDOUS WASTE CONTROL ACCOUNT FEE REFORM	

Personal Services	Positions			Dollars		
	CY	BY	BY + 1	CY	BY	BY + 1
Total Salaries and Wages ¹	0.0	6.8	9.4		\$504	\$702
Total Staff Benefits ²					\$208	\$292
Distributed Administration					\$115	\$103
Total Personal Services	0.0	6.8	9.4		\$827	\$1,097

Operating Expenses and Equipment						
General Expense					\$106	\$64
Distributed Administration					\$29	\$26
Printing					\$11	
Communications					\$13	\$13
Postage					\$8	
Travel-In State						\$28
Travel-Out of State						
Training					\$6	\$8
Facilities Operations					\$79	\$114
Utilities					\$1	\$2
Consulting & Professional Services: Interdepartmental ³						
Consulting & Professional Services: External ³					\$449	
Data Center Services					\$28	\$34
Information Technology					\$28	\$29
Equipment ³						
Other/Special Items of Expense: ⁴						
Total Operating Expenses and Equipment					\$758	\$318

Total State Operations Expenditures					\$1,585	\$1,415
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Fund Source	Item Number			Fund		
	Org	Ref	Fund			
General Fund	0860	001	0001			
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements	0860	001	0995		\$1,585	\$1,415

Total Local Assistance Expenditures						
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Fund Source	Item Number			Fund		
	Org	Ref	Fund			
General Fund						
Special Funds ⁵						
Federal Funds						
Other Funds (Specify)						
Reimbursements						

Grand Total, State Operations and Local Assistance					\$1,585	\$1,415
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¹ Itemize positions by classification on the Personal Services Detail worksheet.

² Provide benefit detail on the Personal Services Detail worksheet.

³ Provide list on the Supplemental Information worksheet.

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

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

Supplemental Information

(Dollars in thousands)

BCP No.	Proposal Title
May Revise 1	HAZARDOUS WASTE CONTROL ACCOUNT FEE REFORM

Equipment				CY	BY	BY +1
Standard Complement					\$156	\$155
Total					\$156	\$155

Consulting & Professional Services						
IT Contract Services					\$449	
Total					\$449	

Facility/Capital Costs						
Facility Operations					\$79	\$114
Total					\$79	\$114

One-Time/Limited-Term Costs		Yes	No			
Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
General Expense	1.0	\$105	2.0	\$39	1.0	
Printing		\$11				
Communications		\$5		\$2		
Postage		\$8				
Information Technology		\$10		\$5		
	1.0	\$139	2.0	\$46	1.0	

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
			2.8	-\$170	0.5	-\$20
Total	0.0		2.8	-\$170	0.5	-\$20

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
Total	0.0		0.0		0.0	