STATE OF CALIFORNIA  
Budget Change Proposal - Cover Sheet  
DF-46 (REV 02/15)

<table>
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<th>Fiscal Year</th>
<th>Business Unit</th>
<th>Department</th>
<th>Priority No.</th>
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<tr>
<td>2016-17</td>
<td>3960</td>
<td>Department of Toxic Substances Control</td>
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<th>Budget Request Name</th>
<th>Program</th>
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<tr>
<td>SB 162 Treated Wood Waste</td>
<td>3625 Hazardous Waste Management</td>
<td></td>
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Budget Request Description  
Treated Wood Waste (Galgiani, Chapter 351, Statutes of 2015).

Budget Request Summary  
The Department of Toxic Substances Control request an augmentation from the Hazardous Waste Control Account of $370,000 in fiscal year (FY) 2016-17 and FY 2017-18 to implement Senate Bill (SB) 162 (Galgiani, Chapter 351, Statutes of 2015) related to the management of treated wood waste. This proposal includes Trailer Bill language to extend the implementation period for an additional six months, to provide a full two years to implement SB 162's requirements.

Requires Legislation  
☒ Yes ☐ No

Code Section(s) to be Added/Amended/Repealed  
Health and Safety Code Section 25150.7

Does this BCP contain information technology (IT) components?  
☐ Yes ☒ No

Department CIC Date

If yes, departmental Chief Information Officer must sign.

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, 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 Date

Department Director Date

Agency Secretary Date

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

PPBA Date submitted to the Legislature
A. Budget Request Summary

The Department of Toxic Substances Control request an augmentation from the Hazardous Waste Control Account of $370,000 in 2016-17 and 2017-18 to implement SB 162 (Galgiani, Chapter 351, Statutes of 2015) related to the management of treated wood waste. This proposal includes Trailer Bill language to extend the implementation period for an additional six months, to provide a full two years to implement SB 162’s requirements.

B. Background/History

Statute was enacted in 2004 (Matthews, Chapter 597, Statutes of 2004) that modified the regulation of treated wood waste, identified as a hazardous waste in California due to the copper, chromium and arsenic it contains as preservatives. When the law was enacted, it was intended to resolve a long-standing concern with the management of treated wood waste. Up to that time, most treated wood waste was unregulated, largely due to a variety of prior decisions made by DTSC that had granted variances from hazardous waste management requirements to allow its disposal in solid waste landfills. DTSC’s variance decisions created confusion and uncertainty about the regulatory requirements that applied to treated wood waste. While its disposal in solid waste landfills was believed to be protective, its handling and management prior to its disposal continued to pose environmental, worker and public health and safety threats.

The statute, when originally enacted in 2004, included a set of interim management standards that governed the management and disposal of treated wood waste. DTSC was required to adopt regulations to establish an alternative regulatory structure for the management and disposal of treated wood waste that replaced the statutory requirements. DTSC adopted regulations for the management of treated wood waste on July 1, 2007 (Alternative Management Standards for Treated Wood Waste, California Code of Regulations Title 22, Division 4.5, chapter 34). These regulations were structured very similarly to the universal waste regulations, which were also adopted in that same era, except that the treated wood waste standards contained additional tracking and reporting requirements which are not included in the universal waste requirements. Without these alternative management standards, treated wood waste would be required to be managed as a hazardous waste, increasing the burden and complexity of managing the waste, not only on the regulated community, but on the general public as well.

The 2004 statute also required DTSC to prepare a report regarding the successful compliance with, and implementation of, the treated wood waste statute, and to publish its report in June 2011. The report DTSC prepared in 2011 was based on information that was available after the regulations were adopted in 2007, as well as a very limited number of site inspections conducted for purposes of gathering compliance information as mandated by the statute. Because DTSC’s original information gathering efforts were limited, the conclusions it drew from the limited amount of data were very generalized. DTSC’s methodology, and the limited data set and broad generalizations raised concerns about compliance with the standards and the protections they afford to public health and environmental protection in California.

C. State Level Considerations

This request is necessary to carry out the requirements of SB 162 (Galgiani, Chapter 351, Statutes of 2015).

This request is also necessary to implement the following Fixing the Foundation Fundamentals:

Hazardous Waste Management Plan Work Plan 4(e) – Establish clear priorities for enforcement.

This proposal would also increase DTSC’s ability to carry out Goal 2 of DTSC’s 2014-2018 Strategic Plan:

Goal 2: Effectively, efficiently, and fairly administer and enforce California’s hazardous waste management laws.
Analysis of Problem

D. Justification

SB 162 requires DTSC to conduct a comprehensive evaluation of treated wood waste handlers, their compliance with the requirements, and the effectiveness of the standards. It requires DTSC to inspect at least 25% of treated wood waste generators and treated wood waste disposal facilities in conducting its evaluation. Inspection results from at least 25% of treated wood waste generators and treated wood waste disposal facilities will provide a sufficient basis for drawing supportable conclusions on the compliance and effectiveness of the alternative management standards.

DTSC is proposing an amendment to the statute to extend the due date for the required report. The additional time is needed for DTSC to collect the required data on rates of compliance and injuries related to treated wood waste handling, to conduct the required inspections of treated wood waste handlers, to prepare and administer the required surveys of household hazardous waste collection facilities, solid waste transfer facilities, solid waste disposal facility load check programs, and CUPAs, to assess information and collection and disposal options available to household generators, to evaluate the adequacy of protective measures taken in tracking, handling, and disposing of treated wood waste, and to prepare the report containing the required conclusions and recommendations. To perform all of these activities within the 18 months provided by SB 162 would require DTSC to request more resources than are being requested in this proposal (see below), to be able to accommodate the shorter time frame that the enacted statute provides.

The funding and positions that DTSC is requesting would support the hiring of limited term staff that would be responsible for conducting field inspections of the required number of treated wood waste generators and treated wood waste disposal facilities (approximately 233 inspections total for the time period of the project. DTSC estimates that roughly 20% of all inspections result in enforcement action follow-up. Based on this assumption, DTSC estimates there will be approximately 46 enforcement cases initiated as a result of the treated wood waste inspections. In addition, the funding and positions would also support the gathering of information and data needed for DTSC to present in the mandated report, to draw the required conclusions and to make recommendations as required by SB 162.

DTSC cannot afford to redirect staff to perform these additional responsibilities, nor can it absorb this workload to conduct these activities. DTSC’s Enforcement and Emergency Response Division resources are already fully obligated to fulfilling the statutory mandates and funded commitments with which it carries out inspections, investigations, and enforcement actions. These mandates and commitments prevent it from redirecting its enforcement resources to other unscheduled hazardous waste handlers such as transporters.

DTSC’s existing enforcement mandates and commitments include:

- Federal Resource Conservation and Recovery Act (RCRA) grant commitments and statutory mandates under DTSC’s delegation for the federal RCRA program to inspect and take enforcement actions at federally regulated, authorized treatment, storage, and disposal facilities, as well as generators;
- Cal/EPA funded mandates and commitments to provide support and oversight of the hazardous waste elements of the Unified Program;
- CalRecycle funded statutory mandates and commitments to annually inspect and take enforcement actions at used oil recycling facilities and other used oil handlers;
- Mandates to inspect out-of-state used oil recyclers for compliance with used oil recycling requirements;
- CalRecycle funded mandates and commitments to annually inspect and take enforcement actions at electronic waste recyclers and other electronic waste handlers; and,
- Cal/EPA delegated commitments to implement the Unified Program in Imperial and Trinity Counties as the Certified Unified Program Agency (CUPA).

E. Outcomes and Accountability

With the requested Trailer Bill Language, over the 24 months that will be available to implement this BCP, DTSC will be able to conduct approximately 172 treated wood waste generator inspections, 50 solid waste transfer facility inspections (where treated wood waste that is removed from solid waste destined for landfills), and 12 inspections of landfills where treated wood waste is disposed. Based on
Analysis of Problem

DTSC's experience with inspection of other hazardous waste handlers, these inspections are likely to result in 34 administrative enforcement cases against generators of treated wood waste, 10 administrative enforcement cases against solid waste transfer facilities, and one enforcement case against solid waste landfills receiving treated wood waste for disposal. As data from the inspections is generated, the information will be compiled and analyzed to form the basis for the evaluation and report to be prepared.

<table>
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F. Analysis of All Feasible Alternatives

Alternative 1: Approve the augmentation to the appropriation in FY 2016-17 and FY 2017-18 for DTSC to implement SB 162 (Galgiani, Chapter 351, Statutes of 2015), and approve the proposed Budget Trailer Bill language to extend the deadline by six months.

Pros:
- Allows DTSC to better manage the workload and facilitate recruitment of staff to carry out the inspection responsibilities.
- Allows DTSC to objectively evaluate the treated wood waste management standards that are less stringent than full hazardous waste management regulations
- Allows DTSC to ensure that its regulations and oversight of hazardous waste management activities continue to be protective of public health and the environment.
- Improves compliance with hazardous waste laws and regulations.

Con:
- Requires the expenditure of additional HWCA funds and allocation of additional positions.

Alternative 2: Approve the augmentation to the appropriation in FY 2016-17 and FY 2017-18 to implement SB 162, but do not approve the proposed Budget Trailer Bill language.

Pros:
- Allows DTSC to objectively evaluate the treated wood waste management standards that are less stringent than full hazardous waste management regulations
- Allows DTSC to ensure that its regulations and oversight of hazardous waste management activities continue to be protective of public health and the environment.
- Improves compliance with hazardous waste laws and regulations.

Con:
- Requires up to 3 additional positions be allocated so that the required number of inspections can be performed within the 18 months specified in the statute.
- Requires the expenditure of additional HWCA funds and the allocation of additional positions.

Alternative 3: Redirect existing staff to conduct the inspections and evaluation required by SB 162.
Analysis of Problem

Pros:
- Requires no additional HWCA funds or allocation of additional positions.
- Ensures HWCA funds remain available for other DTSC priorities.
- Improves compliance with environmental laws.
- Allows DTSC to objectively evaluate the treated wood waste management standards that are less stringent than full hazardous waste management regulations.
- Allows DTSC to ensure that its regulations and oversight of hazardous waste management activities continue to be protective of public health and the environment.

Cons:
- Prevents DTSC inspectors and scientists from investigating other serious environmental violations that may also pose risks and hazards to public health and the environment.
- Prevents DTSC from meeting its critical mandates and specifically funded commitments.

Alternative 4: Maintain status quo/do nothing

Pros:
- Requires no additional funds and allocation of additional positions.
- Ensures HWCA funds remain available for other DTSC priorities.

Cons:
- Prevents DTSC from objectively evaluating the treated wood waste management standards that are less stringent than full hazardous waste management regulations.
- Prevents DTSC from ensuring that its regulations and oversight of hazardous waste management activities continue to be protective of public health and the environment.
- Ignores a statutory mandate and erodes DTSC’s credibility with the Legislature and its stakeholders.

G. Implementation Plan

April 2016

Begin the recruitment process to fill positions in anticipation of Budget Act signature.

July 2016

Begin needed technical training classes and health and safety training (including 40-hour Hazwoper and medical monitoring).

Begin gathering information and producing and inspection strategy/work plan for carrying out the required inspections.

August 2016

Begin on-the-job training with experienced inspectors.

September 2016 - April 2018

Conduct inspections and take enforcement actions as needed.

Compile and analyze inspection data and results from the inspections.

Perform evaluation of inspection findings.

April 2018 - June 2018
Analysis of Problem

Prepare report of findings for July 1, 2018 deadline.

H. Supplemental Information
None

I. Recommendation
Approve Alternative #1 and approve the request of $370,000 and four (4.0) positions in FY 2016-17 and FY 2017-18 to implement SB 162 (Galgiani, Chapter 351, Statutes of 2015) related to the management of treated wood waste, and approve the Budget Trailer Bill language to extend the implementation period for an additional six months, to provide a full two years to implement SB 162's requirements. This alternative allows DTSC to objectively evaluate the treated wood waste management standards that are less stringent than full hazardous waste management regulations, ensure that its regulations and oversight of hazardous waste management activities continue to be protective of public health and the environment, and improves compliance with hazardous waste laws and regulations.