

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

October 19, 2017

2. Department

Toxic Substances Control

3. Organizational Placement (Division/Branch/Office Name)

Site Mitigation and Reuse Program, Southern Division

4. CEA Position Title

Site Mitigation and Reuse Program CEA, Southern Division

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

DTSC is responsible for regulating hazardous waste pursuant to California's Hazardous Waste Control Law. The Site Mitigation and Reuse Program (Cleanup Program) CEA, Southern Division will serve as Division Chief, a policymaker that is vital to the mission of DTSC, and makes policy recommendations that ultimately have statewide impact on the health and safety of Californians. The DTSC Cleanup Program CEA, Southern Division establishes and implements protective and consistent cleanup programs and standards and also works to investigate, cleanup, and restore Brownfields properties making them available for productive reuse.

The CEA 7500 position will be established once the current Division Chief, CEA (class code 3833) position becomes vacant. Once all DTSC Division Chief, CEAs (class code 3833) are vacant and converted to the CEA 7500 positions, the Division Chief, 3833 classification will be abolished in accordance with CalHR's January 2015 Classification Consolidation Project that recommends all state departments abolish all "Comma CEA" classifications.

6. Reports to: (Class Title/Level)

Deputy Director, Site Mitigation and Brownfields Reuse Program (Exempt)

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The Cleanup Program CEA, Southern Division establishes and implements protective and consistent cleanup programs and standards. Specifically the CEA performs the following duties including, but not limited to: implementing technical and policy decisions regarding federal facilities, state facilities, and private site cleanups throughout California; serving as the principal advisor to senior management on complex technical and policy issues related to site cleanup; providing supervision and overall policy direction on emerging issues and developing proposals to refine elements of the program; serving as senior management and DTSC's representative to the Department of Defense (DOD), U.S. Environmental Protection Agency (U.S. EPA) and local officials on specific high-priority cleanup projects and property transfers; serves as the primary point of contact and Dispute Resolution Official for private sites, the U.S. Army Corp of Engineers, U.S. Navy, U.S. Army and U.S. Air Force and other federal facilities; represents DTSC in the establishment and coordination of statewide and national policies addressing the remediation of private, state, and federal sites; assists and coordinates the Cleanup Programs tribal and environmental justice efforts; serves as California's representative on national committees; provides direction on special projects within the Cleanup Program and other programs within DTSC. Lastly, the Schools Evaluation and Brownfields Outreach Branch within the Cleanup Program's Southern Division is responsible for assessing, investigating, and cleaning up proposed school sites. The CEA sets policies and regulations to assist school districts in the assessment of school properties by ensuring that environmental conditions are expeditiously investigated, evaluated, and if necessary, remediated in order to protect public health and the environment.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: DTSC's mission is to protect California's people and environment from the harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products. The Cleanup Program is one of DTSC's core programs and provides several important functions related directly to achieving DTSC's primary mission including, but not limited to, implementing technical and policy decisions regarding federal facilities, state facilities, military bases, and private site cleanups throughout California.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Several factors have prompted the need to establish a 7500 CEA. The Division Chief, CEA (class code 3833) classification was established in December 1989. DTSC currently employs five incumbents in the 3833 classification. In CalHR's January 2015 Classification Consolidation Plan, it was recommended that state departments abolish all "Comma CEA" classifications. The plan stated that executive level managers and policy makers should be appointed at the Class 7500 CEA or gubernatorial exempt level.

DTSC assessed the duties of the Division Chief, CEA position over the Site Mitigation and Reuse Program's Southern Division and determined that the 7500 CEA is appropriate and comparable to responsibilities of the Division Chief, CEA. This Comma CEA is a high level policy advisor and operates as a Division Chief over a major division in the department. Both the Division Chief, CEA (3833) and 7500 CEA require the possession of comparable knowledge, skills, and abilities including, but not limited to, maintaining knowledge of the organization and functions of California State Government including the organization and practices of the Legislature and the Executive Branch, principles and practices of high level, policy influences, policy formulation and development, and personnel management.

In addition, DTSC has been using the Comma CEA as an 'at will of the appointing power' appointment which further demonstrates that the consolidation with the 7500 CEA is appropriate.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The Cleanup Program CEA, Southern Division implements technical policy decisions regarding federal facilities, state facilities, and private site cleanups in assigned areas throughout California. The technical and policy decisions address remediation efforts of private, state, and federal sites. The CEA is responsible for developing and revising policies related to implementing new and revised cost estimates to establish appropriate financial assurances for responsible parties. The CEA is responsible for the establishment and implementation of institutional controls that will ensure the protection of public and environmental health at cleanup sites where contamination is left in place. The CEA is responsible for establishing an overall strategy for improved enforcement when responsible parties under-perform during cleanup at cleanup sites including measurement of key metrics, and development of policy that identifies procedures for enforcement. Relevant policies and a description of the CEA's responsibility related to those policies are below.

OP 87-14 "Development and Implementation of Land Use Covenants"

Land use affects individual and collective wellbeing and is a critical factor in meeting the overarching goals of environmental sustainability, economic growth, and social inclusion. DTSC utilizes land use restrictions to protect public health and the environment at sites where contamination is left in place and prevents unsafe exposures to hazardous wastes. The CEA is responsible for establishing and executing policies concerning long-term remediation. These policies have several wide-ranging implications. For example, they help to prevent inappropriate land use at individual sites. They also help to ensure long-term cleanup remedies are carried out and maintained, which can have major financial implications to property owners. The information contained in land use documents must be disclosed to and by participants in real estate transactions. Finally, they serve to restrict certain land uses that impact hospitals, day care centers, and schools.

EO-95-006-PP "Managing Voluntary Site Mitigation Projects"

Existing law authorizes DTSC to enter into voluntary cleanup agreements with private parties to oversee a variety of specified site investigation and remediation activities. These agreements serve to develop sites contaminated by toxins and hazardous waste. As a result, they play a critical role in economic development around the state. The CEA is responsible for overseeing the development and implementation of policies concerning voluntary cleanup agreements. These policies provide guidance to project proponents as well as DTSC staff who provide regulatory oversight to individual projects. Ultimately, these policies help to ensure consistency and fairness in oversight and investigative activities that are protective of human health and the environment.

DPM-CR-16 "Cost Recovery and Reimbursement Policy"

The mission of DTSC is to protect California's people and the environment from the harmful effects of toxic substances, in part, through the restoration of contaminated properties and other environmental resources. In fulfilling its mission, DTSC incurs cleanup and oversight costs in investigating and remediating contaminated properties and is authorized pursuant to the Health and Safety Code to recover its costs from responsible parties. DTSC relies on the recovery of its response costs to fund additional remediation activities, including remediating contaminated properties where there are no financially viable responsible parties. In addition, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 43 U.S.C. section 9601 et seq. and the California Hazardous Substances Account Act (HSA) authorize DTSC to file civil action to recovery response costs. As a result, DTSC is obligated to maximize its recovery of past, present, and future response costs. The CEA plays a central role in developing, implementing, and enforcing cost recovery policies that impact thousands of responsible parties across the state. These policies are broad and comprehensive. They involve how DTSC staff conduct responsible party searches on orphaned sites, the method for collecting and accepting payments, and the process for handling invoice disputes from billable parties. In addition, the CEA develops and oversees policies concerning placement of liens, bankruptcy filings, and payment agreements. These policies tend to be complex and highly sensitive because they can be contested in court by recalcitrant parties and potentially billions in recoverable costs are at stake.

Human and Ecological Risk:

DTSC is one of the few agencies in California with an office dedicated to toxicology. Toxicology is a discipline that overlaps with biology, chemistry, pharmacology, medicine, and nursing. It involves the study of adverse effects of chemical substances on living organisms and the practice of diagnosing and treating exposures to toxins and toxicants. The CEA is responsible for overseeing the Human and Ecological Risk Office, which consists of toxicologists. The CEA is responsible for establishing guidelines and policies for cleanup standards for soil, indoor air, and groundwater to ensure the protection of Californians and the environment from contaminants. These policies also outline the process for determining risk to communities from contaminated properties to ensure they are cleaned up to regulatory standards while also ensuring that regulated entities are not spending funds on the cleanup of properties that are deemed unsafe. These policies ensure transparent decision-making for both community and regulated parties.

Additional related policies:

Investigation and Oversight Cleanup at sites

OPP 90-7 "Site Mitigation Enforcement Case Management"

EO-95-005-PP "Prospective Purchaser Policy"

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The Cleanup Program CEA, Southern Division implements technical and policy decisions regarding federal facilities, state facilities, and private site cleanups throughout assigned areas of California. The incumbent serves as the principal advisor to senior management on complex technical and policy issues related to site cleanup within their assigned territory.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The Cleanup CEA, Southern Division develops and implements new policies and monitors, interprets, and implements existing policies relating to their assigned areas of responsibility in the Cleanup program. These policies relate directly to the mission of the Department including, but not limited to, financial assurances for responsible parties, remediation efforts of private, state, and federal sites, Land Use Control, guidance documents for vapor intrusion, and the enforcement of the Hazardous Waste Control Law. The Deputy Director works with each CEA to adopt recommendations for change or to establish new policy. The CEA is responsible for identifying and implementing the policy changes and developing procedures to accommodate those changes.