

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

2024-03-01

2. Department

State Water Resources Control Board

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

Division of Financial Assistance/Cleanup Fund Branch

4. CEA Position Title

Assistant Deputy Director

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

The proposed CEA is responsible for key policy and process decisions and overall management related to thousands of underground storage tank cleanup sites and over 100 non-petroleum cleanup sites located in primarily disadvantaged communities, over \$300 million of annual expenditures, and over \$5 billion of funding commitments that are critical to achieving the State Water Board's mission to preserve, enhance, and restore the quality of California's water resources and drinking water. The proposed CEA is responsible for ensuring our funding is directed to those communities most in need to ensure human health and the environment are protected and that funding is equitably provided consistent with the State Board's Racial Equity Action Plan and resolution.

6. Reports to: (Class Title/Level)

Deputy Director/CEA B

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): Cleanup Fund Manager is the lead on developing all policy issues related to the Underground Storage Tank Cleanup Fund and meets frequently with the Deputy Director (DFA) and Chief Deputy Director.

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.

Serve as second in command of the Division of Financial Assistance (DFA) and has authority for making high-level policy decisions with a broad impact in the following areas:

1) Underground Storage Tank Cleanup Fund (USTCF): The CEA is considered the "Cleanup Fund Manager" for the USTCF and has lead responsibility for policy development and programmatic implementation, including responsibilities assigned directly to the Cleanup Fund Manager by statute and regulation. The Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 (Act) created the USTCF to help owners and operators of petroleum Underground Storage Tanks (USTs) satisfy federal and state financial responsibility requirements. The USTCF is available to assist UST owners and operators with the costs to clean up contaminated soil and groundwater caused by leaking petroleum tanks. The USTCF requires every owner of a petroleum UST to pay a per gallon fee to the USTCF. This fee, \$0.02 per gallon stored, has recently generated approximately \$300 million annually. The USTCF has approximately 4,200 active claims generating reimbursement requests for cleanup costs. The projected amount of these remaining reimbursement costs averages \$400,000 per claim. The CEA also has responsibility for coordinating with the Division of Water Quality, Regional Water Quality Control Boards, and local agencies in exercising their authority to review and close tank cases with active letters of commitments that are greater than five years old.

2) Site Cleanup Subaccount (SCAP): The CEA has the lead in implementing solutions under the State Water Board's Site Cleanup Subaccount Program. The program assists property owners with contaminated sites and limited or no financial resources to cleanup the sites to ensure human health and the environment are protected. The CEA collaborates with executive level colleagues in the Division of Water Quality and the nine Regional Water Quality Control Boards to identify those sites in communities that: 1) are economically disadvantaged and/or have the highest pollution burden (i.e., environmental justice community; and 2) with the most critical human health risks or threats to water quality to ensure funds are directed to the highest priority projects. The CEA has the lead in developing policy recommendations for Site Cleanup Subaccount and for preparing the annual list of projects that may receive grant funding. There are approximately 100 sites currently receiving SCAP funding and around 280 sites that either need additional SCAP funding or are applying for their first SCAP grant. SCAP currently has \$57 million in funds available and receives \$34 million annually with an average cost for cleanup of \$5 million. There are currently 5,400 sites regulated under the Site Cleanup Program.

3) High Level Coordination, Collaboration, and Communication: The CEA has primary responsibility for coordinating, collaborating, and communicating on Underground Storage Tank Cleanup Fund needs and issues with other internal and external organizations, including Board members, State Board Executive management, the Divisions of Water Quality and Information Technology; the Offices of Chief Counsel, Legislative Affairs, Media Relations, Research, Planning, and Performance, Information Management and Assessment. The CEA is the primary subject matter expert on the Underground Storage Tank Cleanup Fund, including sub-accounts, on both pending legislation and in responding to legislative inquiries; developing responses to media inquiries; and responding to requests from CalEPA and the Governor's Office. The CEA is responsible for overseeing preparation of BCPs and legislative proposals related to Underground Storage Tank Cleanup Fund programs. The CEA is the primary contact with the Department of Toxic Substances Control to carry out complimentary funding programs in a coordinated way. The CEA has primary responsibility for developing and implementing process improvements that impact thousands of recipients of funding from the Underground Storage Tank Cleanup Fund.

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: DFA is the funding arm of the State Water Board, providing billions of dollars in grant and loan project funding and reimbursements for underground storage tank sites that address critical water quality and drinking water issues, which is essential to advancing the Board's mission to preserve, enhance, and restore the quality of California's water resources and ensure safe drinking water for all Californians. Funding helps entities the Board regulates comply with water quality and drinking water standards and regulations.

Staff within the Cleanup Fund Branch are directly responsible for the following specific program areas, which are critical to achieving the goals of DFA and the Board: review of applications from parties responsible for underground storage tank removal and cleanup of contaminated sites to determine project eligibility, technical feasibility, and a project budget, schedule, and scope; developing and negotiating funding agreements to ensure that projects are implemented consistent with state and federal laws and Board policy; reviewing reimbursement requests to ensure eligibility prior to payment, and conducting site visits and project reviews to ensure projects are constructed and completed consistent with the funding agreements.

The projects that Cleanup Fund staff oversee are often in economically disadvantaged and/or environmental justice communities. Responsible parties of active cleanup sites often do not have sufficient resources, absent State Water Board support, to fund critical soil and groundwater remediation efforts needed to protect groundwater resources and human health.

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.

Since 2014 and the passage of SB 445, the Branch has seen a significant increase in the scope of projects and activities it funds, as well as an expansion in the diversity of funding sources and programs. Recently, the Division of Financial Assistance has re-organized, which resulted in additional responsibility for the Cleanup Fund Branch, including the addition of the Replacing, Removing, or Upgrading UST (RUST) program; fiscal tracking responsibilities for all Cleanup Fund programs; and additional general fund resources for the Site Cleanup Subaccount Program.

The Cleanup Fund Branch is responsible for administering numerous funding programs. The Underground Storage Tank (UST) Cleanup Fund provides a means for over 8,000 owners and operators of petroleum UST facilities to meet at least a portion of the federal and State requirements for maintaining financial responsibility to pay for any damages arising from their tank operations. The Fund assists businesses of all sizes and individuals by providing reimbursement for expenses associated with the cleanup of leaking USTs. There are currently over 4,000 active claims and reimbursements have exceeded \$1.7 billion since 2014.

The Cleanup Fund Branch is responsible for administering numerous funding programs associated with the UST Cleanup Fund. Established in 2014, the Site Cleanup Subaccount Program (SCAP) provides funding for non-petroleum cleanup sites (primarily old dry cleaner sites) for which the responsible party does not have financial means to conduct site assessment and cleanup. The State Water Board recently adopted a resolution to focus those cleanup efforts in economically disadvantaged communities with higher overall pollution burdens (i.e., environmental justice communities). Nearly 100 sites are currently benefiting from SCAP funding with over \$150 million committed and \$34 million available annually. A one-time allocation of over \$70 million was recently provided from the State general fund.

The Orphan Site Cleanup Fund has seen recent significant increases in activity as the U.S. Environmental Protection Agency, the Regional Water Quality Control Boards, and the State Water Board have implemented their Stalled Cases Initiative. The Orphan Fund has been critical to funding cleanup of UST sites for which there is not a viable responsible party or the site otherwise doesn't qualify for reimbursement through the UST Cleanup Fund. The RUST program is expected to experience substantial increases in applications as the December 31, 2025 deadline for replacing single-walled tanks approaches with approximately 1,000 facilities that still need to replace single-walled tanks.

With the new and expanded programs, the Cleanup Fund Branch has come under additional scrutiny by our Board and stakeholders and the Branch is expected to manage a much more complex portfolio of projects. The combination of a higher profile; greater scrutiny of the programs the Cleanup Fund Branch manages; emphasis on process improvements and key performance indicators; and engagement with a greater number of internal and external stakeholders requires an executive leader with a broad skill set and knowledge base. The Cleanup Fund currently has 63 administrative positions and 41 technical positions requiring a leader with broad-based proficiency and understanding versus primarily having an in-depth knowledge of technical issues, which comes from a pool of candidates in a technical classification.

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 CEA will have primary responsibility for establishing and implementing policies in the following areas:

1. **Underground Storage Tank Cleanup Fund (USTCF):** The CEA is considered the "Cleanup Fund Manager" for the USTCF and has lead responsibility for policy development and programmatic implementation, including responsibilities assigned directly to the Cleanup Fund Manager by statute and regulation. The Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 (Act) created the USTCF to help owners and operators of petroleum Underground Storage Tanks (USTs) satisfy federal and state financial responsibility requirements. The USTCF is available to assist UST owners and operators with the costs to clean up contaminated soil and groundwater caused by leaking petroleum tanks. The USTCF requires every owner of a petroleum UST to pay a per gallon fee to the USTCF. This fee, \$0.02 per gallon stored, has recently generated approximately \$300 million annually. The USTCF has approximately 4,200 active claims generating reimbursement requests for cleanup costs. There are active claims for UST sites throughout the State. The CEA is responsible for updating and ensuring effective implementation of cost reimbursement guidelines, which impact both the efficiency of processing claims, as well as clarifying eligible costs. The CEA also has responsibility for coordinating with the Division of Water Quality, Regional Water Quality Control Boards, and local agencies in exercising their authority to review and close tank cases with active letters of commitments that are greater than five years old.

2. **Site Cleanup Subaccount Program (SCAP):** The CEA has the lead in developing policies associated with the State Water Board's Site Cleanup Subaccount Program. The program assists property owners with contaminated sites and limited or no financial resources to cleanup the sites to ensure human health and the environment are protected. The CEA has the lead in preparing the annual list of sites that are eligible to receive SCAP grants, as well as recommending new policies or policy changes associated with the State Water Board's SCAP resolution. The CEA is responsible for ensuring the SCAP is implemented consistent with the State Water Board's Racial Equity resolution. The CEA collaborates with executive level colleagues in the Division of Water Quality and the nine Regional Water Quality Control Boards to identify those sites in communities that: 1) are economically disadvantaged and/or have the highest pollution burden (i.e., environmental justice community; and 2) with the most critical human health risks or threats to water quality to ensure funds are directed to the highest priority projects. There are approximately 100 sites currently receiving SCAP funding and around 280 sites statewide that either need additional SCAP funding or are applying for their first SCAP grant. SCAP currently has \$57 million in funds available and receives \$34 million annually with an average cost for cleanup of \$5 million.

3. **Orphan Site Cleanup Fund (OSCF):** OSCF has seen recent significant increases in grant applications as the U.S. Environmental Protection Agency, the Regional Water Quality Control Boards, and the State Water Board have implemented their Stalled Cases Initiative. Stalled cases are those that have not advanced to closure often due to lack of financial resources. OSCF recently was appropriated an additional \$30 million in State fiscal year 2023/2024. The Orphan Fund has been critical to funding cleanup of UST sites for which there is not a viable responsible party or the site otherwise doesn't qualify for reimbursement through the UST Cleanup Fund. The CEA will be responsible for developing policies to ensure the OSCF is implemented consistent with the State Water Board's priorities to support projects in economically disadvantaged and environmental justice communities, while collaborating with the Regional Water Boards and local regulatory agencies to close sites that are associated with the Stalled Cases Initiative.

C. ROLE IN POLICY INFLUENCE (continued)

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

The CEA will typically have final decision-making authority on most issues requiring interpretation of State Water Board policies that apply to the Underground Storage Tank Cleanup Fund. As the Cleanup Fund Manager, the CEA has decision-making authority defined in statute and regulations for a variety of functions, including the CEA exercising their authority to review and close tank cases with active letters of commitments that are greater than five years old; appeals of staff eligibility decisions. The CEA will have primary decision making authority over the issuance of grants and loans for the Replacing, Removing, or Upgrading Underground Storage Tanks Program; the Orphan Site Cleanup Fund; and the Site Cleanup Subaccount. The CEA will also generally decide which projects fall outside of delegated authority or established policy and, therefore, are elevated to the Deputy Director, Executive Director and State Board for consideration. These decisions are made in consultation with colleagues in other parts of the Water Board and/or legal staff as needed.

The CEA will have primary decision making authority regarding procedures and best practices associated with the responsibilities of the Cleanup Fund programs, including application review procedures and standards; review of technical deliverables; and review of reimbursement claims. The CEA will provide final approval for any new or revised funding application material; checklists; and program related changes to funding agreement templates.

The CEA will be the main point of contact and decision maker for identifying and resolving issues that involve both internal and external organizations, including, but not limited to: the Office of Chief Counsel, the Division of Water Quality, the nine Regional Water Quality Control Boards, the Office of Public Participation, the Office of Legislative Affairs, the Office of Media Relations, the Department of Toxic Substances Control, and local regulatory agencies.

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

The CEA will be responsible for developing, interpreting, and implementing both existing and new policy related to the provision of billions of dollars in reimbursements, grants and loans to for programs administered as part of the Underground Storage Tank Cleanup Fund. The Site Cleanup Subaccount Program's process for prioritizing projects recently underwent a major revision by the State Water Board in 2023 and is likely to undergo further revisions in 2024. The CEA will need to implement these policy changes and apply them to both projects that have previously received funding and require additional funding, as well as to new projects. The CEA will also have the lead in developing recommendations for significant changes to the USTCF regulations that are long overdue (last change in 2004) and to ensure the regulations reflect more recent (2014/SB 445) statutory changes. The regulatory changes will require significant stakeholder engagement and likely take multiple years.