

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

2019-08-15

2. Department

Toxic Substances Control

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

Hazardous Waste Management Program/Enforcement and Emergency Response Division

4. CEA Position Title

Division Chief, CEA Enforcement & Emergency Response

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

The Department of Toxic Substances Control (DTSC) requests to establish a Class 7500 Career Executive Assignment (CEA) position (810-940-7500-xxx) to oversee the Enforcement and Emergency Response Division within the Hazardous Waste Management Program. The CEA 7500 position will be established once the current Division Chief, CEA (class code 3833) position 810-940-3833-001 becomes vacant. Subsequently, this Division Chief, 3833 position 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, Hazardous Waste Management 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.**

DTSC is responsible for regulating hazardous waste pursuant to California's Hazardous Waste Control Law. The CEA serves as a Division Chief and is a policymaker that is vital to the mission of DTSC. The CEA makes policy recommendations that ultimately have statewide impact on the health and safety of Californians. The CEA is responsible for providing technical policy and program decisions that are mission critical to DTSC's core program areas including, environmental enforcement, emergency response, hazardous waste management and transporting, and permitting hazardous waste generators.

The CEA is responsible for making determinations regarding environmental enforcement and emergency response activities throughout California. The CEA establishes and implements environmental enforcement programs for the purpose of protecting public health and the environment including, but not limited to, conducting inspections, investigations, and enforcement activities related to hazardous waste management; ensuring compliance with State and Federal environmental laws; and responding to hazardous material emergencies and off-highway related spills.

Within the Enforcement and Emergency Response Division, the Emergency Response Program provides immediate assistance during sudden or threatened releases of hazardous materials. Trained responders work with law enforcement agencies to clean-up illegal drug labs and remove toxic chemicals at roughly 2,000 labs per year. They also clean-up hazardous substance spills related to off-highway transportation and natural disasters.

The CEA represents DTSC in California Environmental Protection Agency's (Cal/EPA) cross-media and Environmental Justice enforcement efforts. The CEA represents DTSC in decision-making related to DTSC's enforcement program and acts as liaison with other boards, departments and offices within the Cal/EPA to coordinate enforcement initiatives. The CEA serves as a liaison with various external environmental agencies as well as State law enforcement agencies, including Certified Unified Program Agency (CUPA), particularly in matters involving the development and enforcement of sensitive environmental policies and actions. The CEA is responsible for establishing and maintaining cooperative working relationships with Federal, State and local government agencies to ensure coordinated enforcement and emergency response actions.

**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 Hazardous Waste Management Program (HWMP) is one of DTSC's core programs and provides several important functions related directly to achieving DTSC's primary mission including, but not limited, establishing and implementing environmental enforcement programs throughout the State of California; conducting inspections, investigations, and enforcement activities related to hazardous waste management; and responding to hazardous material emergencies and off-highway related spills.

**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 (3833) classification was established in December 1989. 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 m

DTSC assessed the duties of the Division Chief, CEA position over the Enforcement and Emergency Response Division and determined that the 7500 CEA is appropriate and comparable to 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 requires 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 practice 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 CEA manages the department's statewide enforcement program elements and serves as principle policymaker to ensure compliance with hazardous waste laws and regulations through conducting inspections and developing appropriate enforcement actions against violators. Specifically, the CEA develops policies to meet DTSC's obligation to respond to statewide or significant hazardous material emergencies under the Hazardous Materials and Oil Emergency Function of the State Emergency Plan, develops policy to solicit public comment on proposed negotiated enforcement settlements, and develops internal policy and guidance documents to expedite settlement negotiations and maintain appropriate penalty amounts.

DTSC has the primary authority to enforce the hazardous waste statutes and adopted regulations (§25180 Health and Safety Code). DTSC conducts inspections at facilities located throughout the State of California to enforce these laws. The CEA establishes policy regarding the types of inspections conducted, their frequency, and the time-lines of the reports associated with the inspection. The purpose of the inspections is to monitor a facilities hazardous waste management activities including the generation, transportation, storage, treatment, and disposal.

DTSC takes action for violations of hazardous waste laws through the issuance of administrative orders and/or filing civil actions. The CEA establishes policy regarding the appropriate type of enforcement action taken, the negotiating position taken, the type and length of negotiations, and the ultimate settlement authority for these enforcement actions.

DTSC is required to respond to statewide or significant hazardous material emergencies as defined under the State Emergency Plan (§8560 Government Code) and required by the California Emergency Services Act (§8550 Government Code et seq.). The CEA is responsible for establishing policy regarding DTSC's preparation, coordination and response to these hazardous materials emergencies. The CEA identifies necessary resources, establishes training requirements for responders, ensures maintenance of trained response staff, and integrates DTSC staff into the State Emergency Management System.

Related policies include the following:

- DTSC-OP-0032 Collecting Overdue Administrative Penalties (Supersedes EO-02-005-PP)
  - DTSC-OP-0007 Sharing Administrative Penalty Calculation Information (Supersedes EO-03-001-PP)
  - DTSC-OP-0002 Referrals to the California Compliance School (Supersedes EO-02-004-PP)
  - DTSC-OP-0003 Hazardous Waste Administrative Complaints Policy (Supersedes EO-02-007)
  - DTSC-OP-0004 Guidelines for Calculating the Economic Benefit of Noncompliance (Supersedes EO-02-001-GD and EO-96-001-PP)
  - DTSC-OP-0006 Enforcement Response (Supersedes EO-02-003-PP, EO-95-004-PP, EO-92-001-MM, EO-93-023-MM and EO-92-004-MM)
  - EO-06-002-PP Enforcement Document Web Posting Policy
  - DTSC-OP-0005 Conducting Inspections (Supersedes EO-02-006-PP)
  - DTSC-OP-0008 Implementing Quarantine Authority (Supersedes EO-02-002-PP and OPP 88-9)
- California State Emergency Plan (2017) – California Office of Emergency Services

**C. ROLE IN POLICY INFLUENCE (continued)**

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

The CEA's decision making directly affect the public health of Californians and the environment through critical enforcement work that is conducted throughout the State. Policy decisions made by this CEA have statewide impact as the Enforcement and Emergency Response Division enforces hazardous waste laws throughout California and responds to hazardous waste related emergencies or disaster events.

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

The CEA develops and implements new policies and monitors, interprets, and implements existing policies relating to the Enforcement and Emergency Response Division. These policies relate directly to the mission of the department and include, but are not limited to, emergency removal of hazardous substances from illegal drug manufacturing sites and abandoned hazardous wastes, inspection of facilities that treat, store and dispose of hazardous waste, support and technical assistance to local agencies, and the enforcement of the Hazardous Waste Control Law. The Hazardous Waste Management Program Deputy Director (Governor appointee) will work with the 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.