

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

2025-09-02

2. Department

Office of Energy Infrastructure Safety

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

Underground Infrastructure Directorate

4. CEA Position Title

Deputy Director, Underground Infrastructure Directorate

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

The position oversees the State's Underground Safety Program and manages the Underground Safety Board. Per Energy Safety's structure, this position is a peer of a gubernatorial appointee over utility wildfire mitigation. Oversees statewide safe excavation program whose regulated community includes 2,100 public and private utilities, 220,000 contractors, and other non-contractor excavators. Provides administrative, policy, and program direction to two sections including one CEA-A ("Assistant Division Chief of Education and Enforcement) and manages the Underground Safety Board, a regulatory investigatory and enforcement body.

6. Reports to: (Class Title/Level)

Chief Deputy Director

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 Office of Energy Infrastructure Safety (Energy Safety) requests to authorize the formerly gubernatorial appointed Underground Safety Board Executive Officer as a CEA B. This responds to the Governor's Appointments Office (April 15, 2025) direction to shift the Executive Officer position from a gubernatorial appointment to a CEA. This request is not for a new position, but rather to facilitate a shift in how the position is appointed. For additional context, the Executive Officer is a non-statutory position, established through an FY 2017-18 Budget Change Proposal (BCP 3540-240-BCP-2017-GB). The original BCP proposed the EO as "a non-statutory Gubernatorial Appointee Career Executive Assignment." The BCP responded to SB 661 (Ch. 809, Stats. 2016) which established the Dig Safe Act and the Underground Facilities Safe Excavation Board (or Underground Safety Board).

The Dig Safe Act of 2016 authorized the Board to investigate accidents, develop excavation safety standards and coordinate education and outreach programs. The nine member Board, appointed by the Governor and Legislature, oversees excavation safety around buried utilities by coordinating the state's education and outreach efforts, investigating accidents to determine their causes, setting standards for safe excavation and ensuring the state's safe excavation laws are followed. Historically, there has been only one incumbent in the Executive Officer role appointed by Governor Brown at a CEA B salary level on June 29, 2017. The position is currently vacant.

Executive Officer's functions (hereafter "Deputy Director") reflect high level policy setting involving a broad set of stakeholders. Since establishment, the program includes a statewide education and outreach program, administered by a subordinate CEA A, in addition to responsibilities to develop statewide standards and regulations, direct a field investigation and audit program, manage a public Board enforcement program, administer a regulatory fee, manage a Board of gubernatorial and legislative appointees, presents to the Legislature during the Board's triennial legislative review (Gov't Code § 4216.12 (c)) and as requested, serve as the accountable executive for annual federal audit (49 CCR 198.51-198.63) of California's excavation safety program. A detailed description of these responsibilities follows.

The Deputy Director plans, directs, and organizes Energy Safety's and the Board's excavation safety standard development process, including the development of state policy, and leads professional staff developing standards and policies through surveys, public workshops, data-driven research, and reports. These are presented at public meetings. The Deputy Director plans, directs, organizes, and leads implementation of Energy Safety's and the Board's incident investigation program, including receiving, processing, and prioritizing mandated damage reports and complaints of Dig Safe Act violations. The position manages and coordinates case assignments to investigators and oversees the investigation process and investigation reports development. The Deputy Director directs, and organizes Energy Safety's and the Board's Dig Safe Law audit compliance program, including developing and implementing program and policy changes upon approval from the Legislature.

The Deputy Director, in consultation with the Board Chair, sets the Board meeting agenda –providing background, analyses, and policy context for agenda items. The incumbent leads the development of the Board's Annual Plan for their consideration and action and is responsible for adhering to and reporting upon the Annual Plan's achievement. Additionally, the incumbent implements the Board's strategic plan and regularly presents plan progress and accomplishments at Board meetings.

The Deputy Director ensures Board compliance with the Dig Safe Act of 2016, and all other applicable laws rules, regulations, policies, and procedures, seeking clarification from Board counsel and other appropriate experts, as necessary, as well as ensuring procedural compliance with Bagley-Keene rules, meeting conduct, and timelines. The incumbent maintains constructive relationships with board members and ensures members are versed in procedures, policies, and programs. This includes briefing Board members on policy items under consideration, and investigation case facts to ensure Board members make defensible enforcement decisions during enforcement hearings. The Deputy Director engages private and public sector stakeholders, and aids appointing powers (Governor, Assembly, Senate) in Board member selection. Sets workload expectations, conflict of interest behavior and reporting, and open meeting act compliance with Board members during their tenure.

The incumbent leads and directs staff and managers developing annual reports, including action and policy recommendations. The Deputy Director testifies before legislative committees on behalf of the Board and Energy Safety, as required. Additionally, the incumbent directs APA rulemaking implementing the Dig Safe Act, including developing economic analyses and Statements of Economic Impact.

The position directs developing notices of probable violation to Dig Safe Law violators and oversees Board enforcement meetings. Also, the position plans, directs, and organizes the department and Board's statewide education and outreach program: e.g., designing curriculum, marketing campaigns, public workshops and excavation and market data analysis, coordinating 811 Notification Center outreach, contractor association curriculum, and utility operators' regulatory requirements for education and performance monitoring. Conducts the annual Education and Outreach Meeting. The position oversees projections and recommendations for the program's regulatory fee supporting the Board and Energy Safety Fund 3302 activities. Ensures appropriate, timely notification for fee determination decisions.

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: The Office of Energy Infrastructure Safety's (Energy Safety) mission is to create a safer, sustainable California with utility infrastructure that is managed to reduce excavation and wildfire risk and is adaptable to an evolving climate." Energy Safety is responsible for overseeing enforcing energy infrastructure wildlife safety per Public Utilities Code Sections 326 and 8385 et. seq. and utility excavation safety per Government Code 4216 et., seq.

The California Underground Safety Board was created by the Dig Safe Act of 2016 to investigate accidents, develop excavation safety standards and coordinate education and outreach programs. The Board is made up of nine members, appointed by the Governor and Legislature. Members are charged with overseeing the safety of excavations around buried utilities by coordinating the state's education and outreach efforts, investigating accidents to determine their causes, setting standards for safe excavation and ensuring the state's safe excavation laws are followed. The Underground Safety Board was created within CAL FIRE's State Fire Marshal and moved by SB 865 (Ch. 307, Stats. of 2020) to Energy Safety in January 2022 after the department was established in July 2021.

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.

This is submitted to change the position from a gubernatorial appointment to a CEA, pursuant to direction from the Governor's Office.

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.

Balancing Education and Enforcement to Achieve Compliance. The 811 law (Gov't Code 4216 et seq.) involves many requirements, most of which can have limited adherence among some stakeholder groups. The Governor's appointee, to be converted to CEA, must develop an approach to bring the 2,100 utilities—public and private, of all types, big and small—220,000 contractors, and other excavator groups (such as farmers, homeowners, etc.) into compliance for all these requirements. The use of enforcement alone to groups of low awareness brings backlash, mistrust, and potentially legislation. The CEA will need to use judgment with incomplete information to determine how to gain sufficient compliance through stakeholder outreach education before engaging in enforcement activities.

Developing Statewide Standards that Affect All Utilities and Excavators. Per statute (Gov. Code 4216.18), the Board develops statewide standards for excavators and operators on how to perform safe work, a responsibility that came from stakeholders telling the legislature of the compelling need for standards that ensure clarity and consistency among the various contractors, subcontractors, and utility operators working in the state. Currently, the Board is working on standards for project planning and design, hand digging procedures to find buried utilities, and standard communication between excavators and operators. These standards must be applicable across all utilities and across excavators ranging from landscapers to plumbers to heavy civic construction companies and, therefore, require intense stakeholder engagement and a balance between standard clarity, so that stakeholders know what to do, and flexibility, to accommodate the different types of excavation work.

Making Public Recommendations to the Governor and Legislature on Legislative Changes. Per statute (Gov't Code 4216.23), the Board issues recommendations to the Governor and Legislature. A poorly developed recommendation can falter in the Legislature (where the Board cannot advocate), so the CEA's ability to develop effective recommendations that can stand stakeholder scrutiny is crucial to the Board's credibility before stakeholders and the Legislature. Currently one of the Board's recommendations (requiring utilities to participate in a planning and design information request process) is active before the Legislature, and another (eliminating the 811 notification exemption for emergencies) is still awaiting the Legislature's attention.

C. ROLE IN POLICY INFLUENCE (continued)

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

The Deputy Director, Underground Infrastructure Directorate will exercise the significant independence of decision-making authority over excavation communication and safety policy in the state and is a member of Energy Safety's Executive Management Team.

The position oversees the State's Underground Safety Program and manages the Underground Safety Board. This position is a peer of a gubernatorial appointee over utility wildfire mitigation and oversees the State's safe excavation program whose regulated community includes 2,100 public and private utilities, 220,000 contractors, and other non-contractor excavators. The scope of statutory activities this position oversees includes development of safety regulations and non-regulatory safety standards, coordinating the State's safe excavation education and outreach efforts, conducting accident investigations and compliance audits, and conducting enforcement proceedings.

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

The Deputy Director continues to implement the Dig Safe Act of 2016 and its nearly annual legislative additions through regulation development, standard setting, education and outreach, and accident investigation and enforcement of those new laws, standards, and regulations.

This includes developing hand digging and project planning and design standards, developing regulations to implement the statutory GIS mapping requirement on buried infrastructure, developing standards for the new statutory electronic utility communication requirements, and developing strategies to educate utilities and excavators on safe excavation requirements.