

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2024-0023**

ADOPTING A SITE CLEANUP SUBACCOUNT PROGRAM (SCAP) RANKING
METHODOLOGY AND SCAP FISCAL YEAR FUNDING AND EXPENDITURE PLAN,
AND REVISING THE DELEGATION OF AUTHORITY TO THE DEPUTY DIRECTOR
OF THE DIVISION OF FINANCIAL ASSISTANCE FOR SCAP

WHEREAS:

1. In 2014, the Legislature established the SCAP, funded through an annual transfer of funds from the Underground Storage Tank Cleanup Fund, and authorized the State Water Resources Control Board (State Water Board) to expend funds from the SCAP for certain purposes, as set forth in section 25299.50.6 of the Health and Safety Code (hereafter, the SCAP Statute).
2. The SCAP Statute authorizes the State Water Board to expend SCAP funds by executing contracts and by issuing grants to eligible grant applicants for the following purposes:
 - a. For projects that remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination where both of the following eligibility requirements have been met:
 - i. The State Water Board, the Department of Toxic Substances Control (DTSC), a Regional Water Quality Control Board (Regional Water Board), a certified local oversight program agency, a unified program agency, or a local officer requires the responsible parties to undertake or contract for investigation or cleanup pursuant to an oral or written order, directive, notification, or approval issued pursuant to section 25187, 25187.1, 25296.10, 78870, 79055, or 101480 of the Health and Safety Code, or any section of the Water Code (SCAP-Qualifying Order/Directive). The State Water Board may waive this requirement if the State Water Board finds that it is infeasible for an order to be issued before initiation of remediation.
 - ii. No responsible party has sufficient financial resources to pay for the required response actions.
 - b. To pay for reasonable and necessary expenditures by the State Water Board, the DTSC, a Regional Water Board, a local agency, or water replenishment district to investigate the source of surface or groundwater contamination.

- c. To pay for reasonable and necessary expenditures to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination incurred by any of the following:
 - i. The State Water Board;
 - ii. The DTSC;
 - iii. A Regional Water Board;
 - iv. A local agency; or
 - v. A water replenishment district, under the direction of the State Water Board, a Regional Water Board, a certified local oversight program agency, or another appropriate regulatory agency with authority over surface or groundwater cleanup oversight.
- 3. The SCAP Statute requires the State Water Board to consider the following factors when evaluating projects for expenditures of SCAP remediation funds:
 - a. The degree to which human health, safety, and the environment are threatened by surface water or groundwater contamination at the location. The State Water Board has determined this factor includes the following:
 - i. The impact to, or threatened impact to, a potential source of drinking water; and
 - ii. Soil or soil vapor contamination at the project location.
 - b. Whether the location is in a small or financially disadvantaged community. The State Water Board has defined these terms as follows:
 - i. A “small community” is defined as a community providing drinking water service to less than 10,000 people.
 - ii. A “financially disadvantaged community” or “disadvantaged community” is defined as a community with a median annual household income of less than 80 percent of the statewide median annual household income.
 - c. The cost and potential environmental benefit of the investigation or cleanup based on site conditions. The State Water Board has determined this factor includes the following:
 - i. The scope, schedule, and budget of the proposed work; and

- ii. The technical feasibility of the proposed project.
 - d. Whether there are other potential sources of funding for the investigation or cleanup.
 - e. Other information the State Water Board identifies as necessary for consideration. Consistent with State Water Board [Resolution No. 2021-0050](#) and the Racial Equity Action Plan, the State Water Board considers environmental justice by evaluating the most recent CalEnviroScreen score for the project location.
4. The SCAP Statute requires the State Water Board to review SCAP grant applications and adopt a list of applicants to be awarded grants at least annually.
 5. To promote efficiency, it is desirable to delegate certain actions and authorities to the Deputy Director of the Division, or designee, consistent with the SCAP Statute and this resolution including the SCAP Ranking Methodology set forth in Attachment A, and the SCAP Fiscal Year Funding and Expenditure Plan set forth in Attachment B, as it may be amended, including the adoption of SCAP Priority Lists for Previously Funded Grant Projects, Fundable New Grant Projects, and Contract Projects, at least annually, and the annual amendment of the SCAP Fiscal Year Funding and Expenditure Plan.
 6. It further is desirable to ratify all approvals of grant or contract funding made by the Deputy Director of the Division, or designee, on or before June 30, 2024, consistent with [Resolution No. 2023-0011](#), where the State Water Board has not yet executed a grant agreement, contract, or amendment thereof, or requested the California Department of General Services to enter into the contract, or amendment thereof, for the approved grant or contract funding.
 7. The State Water Board is authorized to request the California Attorney General to recover the actual, reasonable costs of investigation or cleanup undertaken with SCAP funds from a responsible party in appropriate cases. The State Water Board also is authorized to recover SCAP grant moneys paid, but to which the grantee is not entitled, by various means, including, but not limited to, referring such matters to the California Attorney General. It is desirable to delegate to the Deputy Director, or designee, with the concurrence of the Chief Counsel, the authority to refer appropriate cost recovery matters to the California Attorney General.
 8. This resolution supersedes State Water Board Resolution No. 2023-0011 in full.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Ratifies all approvals of grant or contract funding made by the Deputy Director of the Division, or designee, on or before June 30, 2024, consistent with Resolution No. 2023-0011, where the State Water Board has not yet executed a grant agreement, contract, or amendment thereof, or requested the California Department of General Services to enter into the contract, or amendment thereof, for the approved grant or contract funding.
2. Directs the Deputy Director of the Division, or designee, to maintain a SCAP Grant Comprehensive List of all SCAP grant applications, not including previously funded projects or SCAP grant applications that the Division has determined are ineligible, and post the SCAP Grant Comprehensive List on the State Water Board website within 90 days of the adoption of this resolution, and at least annually thereafter.
3. Directs the Deputy Director of the Division, or designee, consistent with the SCAP Statute, this resolution, the SCAP Ranking Methodology set forth in Attachment A, and the SCAP Fiscal Year Funding and Expenditure Plan set forth in Attachment B, to adopt SCAP Priority Lists for Previously Funded Grant Projects, Fundable New Grant Projects, and Contract Projects and post them on the State Water Board website within 90 days of the adoption of this resolution. A project must be on a SCAP Priority List to receive funding. Placement on a SCAP Priority List does not guarantee funding.
4. Authorizes the Deputy Director of the Division, or designee, to remove any project from the SCAP Grant Comprehensive List, including projects on the SCAP Priority List for Fundable New Grant Projects, upon determining that the project is not eligible for funding under the SCAP Statute, when the State Water Board does not receive requested information or documentation to make a finding of eligibility, or when the applicant does not timely respond to requests related to the grant approval, development, and execution process.
5. Authorizes the Deputy Director of the Division, or designee, to remove any project from the SCAP Priority List for Previously Funded Grant Projects upon determining that the project is no longer eligible for funding under the SCAP Statute, when the State Water Board does not receive requested information or documentation to make a finding of eligibility for additional grant funding, or when the applicant does not timely respond to requests related to the approval, development, and execution process for additional grant funding upon request.
6. Directs the Deputy Director of the Division, or designee, to amend the SCAP Fiscal Year Funding and Expenditure Plan annually, and to post the Plan on the State Water Board website.

7. Directs the Deputy Director of the Division, or designee, consistent with the SCAP Statute, this resolution, the SCAP Ranking Methodology set forth in Attachment A, and the applicable SCAP Fiscal Year Funding and Expenditure Plan, to amend the SCAP Priority Lists for Previously Funded Grant Projects, Fundable New Grant Projects, and Contract Projects and post them on the State Water Board website at least annually. A project must be on a SCAP Priority List to receive funding. Placement on a SCAP Priority List does not guarantee funding.
8. Authorizes the Deputy Director of the Division of Financial Assistance, or designee, to approve grant funding and execute grant agreements and amendments for projects consistent with this resolution, the SCAP Statute, the fiscal year SCAP appropriation, and the applicable fiscal year SCAP Fiscal Year Funding and Expenditure Plan.
9. Directs the Deputy Director of the Division, or designee, to consider the following factors in evaluating whether to fund projects on the SCAP Priority Lists for Previously Funded Grant Projects and Fundable New Grant Projects Priority Lists: funding availability; whether a project previously has received SCAP funding and if so whether the project is at a critical juncture and continued funding would allow continued interim measures or cost-effective near-term corrective action to protect human health and the environment; a funding applicant's timely and responsive provision of documentation required by the Division; the Division's analysis of the factors set forth in this resolution; and the applicable fiscal year SCAP Fiscal Year Funding and Expenditure Plan.
10. Authorizes the Deputy Director of the Division, or designee, to approve contract funding and execute contracts and amendments for projects consistent with this resolution, the SCAP Statute, the fiscal year SCAP appropriation, and the applicable fiscal year SCAP Fiscal Year Funding and Expenditure Plan.
11. Directs the Deputy Director of the Division, or designee, to consider the following factors in evaluating whether to fund projects on the SCAP Priority List for Contract Projects: funding availability; whether the project previously has received SCAP funding; the Division's analysis of the factors set forth in this resolution; and the applicable fiscal year SCAP Fiscal Year Funding and Expenditure Plan.
12. Authorizes the Deputy Director of the Division, or designee, to evaluate whether it was feasible for a SCAP-Qualifying Order/Directive to have been issued prior to remediation and to waive that requirement if the Deputy Director, or designee, finds it infeasible for the order or directive to have been issued before the initiation of remediation.

13. Authorizes the Deputy Director of the Division, or designee, to request the California Department of General Services to enter into contracts on behalf of the State Water Board and to act as the agent of the State Water Board or a Regional Water Board for the expenditure of SCAP funds.
14. Authorizes the Deputy Director of the Division, or designee, with the concurrence of the Chief Counsel, to initiate processes to recover SCAP expenditures in appropriate cases, including, but not limited to, referring cost recovery requests to the State Water Board's Office of Enforcement or the Attorney General.
15. Authorizes the Deputy Director of the Division, or designee, to perform other actions necessary to administer the SCAP.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 6, 2024.

AYE: Chair E. Joaquin Esquivel
 Vice Chair Dorene D'Adamo
 Board Member Sean Maguire
 Board Member Laurel Firestone

NAY: None

ABSENT: Board Member Nichole Morgan

ABSTAIN: None



Courtney Tyler
Clerk to the Board

Attachment A

Site Cleanup Subaccount Program (SCAP) Ranking Methodology

Projects proposed for SCAP funding will be reviewed and ranked in collaboration with the Regional Water Quality Control Boards (Regional Water Boards), the Department of Toxic Substances Control (DTSC), and other applicable regulatory agencies in accordance with the methodology described below and consistent with Resolution No. 2024-0023.

1. Quantitative Score (maximum 48 points)

A. Human Health, Safety, and Environmental Risk (maximum 24 points; minimum 10 points¹ to be considered fundable)

The degree to which human health, safety, and the environment are threatened by contamination at the project location is evaluated using available site contaminant data including:

Groundwater and Soil Vapor Contamination (maximum 15 points)

Groundwater contamination is evaluated by comparing the concentrations of the primary risk drivers (typically three) of the contaminants of concern (COCs) to the Screening Levels² (SLs) as follows:

- Concentration less than SL or no data = 0 points
- Concentration equal to or exceeding SL by 1 order of magnitude (OOM) = 1 point
- Concentration equal to or exceeding SL by 1 to 2 OOM = 2 points
- Concentration equal to or exceeding SL by 2 to 3 OOM = 3 points
- Concentration equal to or exceeding SL by 3 to 4 OOM = 4 points
- Concentration equal to or exceeding SL by 4 to 5 OOM = 5 points
- Concentration exceeding SL by 6 OOM = 6 points

¹ An exception to the minimum threshold score of 10 may arise if site conditions indicate trichloroethene (TCE) is present in indoor air above the Accelerated Response Action level. United States Environmental Protection Agency (USEPA) Region 9 Response Action Levels and Recommendations to Address Near-Term inhalation Exposures to TCE in Air from Subsurface Vapor Intrusion, July 9, 2014.

² The SL for groundwater is either the Maximum Contaminant Level, Public Notification Level, Low-Threat Underground Storage Tank Case Closure Policy (LTCP) Groundwater-Specific Criteria Class (4), or USEPA Region 9 Risk Based Cleanup Levels.

Soil vapor contamination is evaluated by comparing the concentrations of the primary risk drivers (typically three) of the COCs to the SLs³ as follows:

- Concentration less than SL or no data = 0 points
- Concentration equal to or exceeding SL by 1 OOM = 1 point
- Concentration equal to or exceeding SL by 1 to 2 OOM = 2 points
- Concentration equal to or exceeding SL by 2 to 3 OOM = 3 points
- Concentration equal to or exceeding SL by 3 to 4 OOM = 4 points
- Concentration equal to or exceeding SL by 4 to 5 OOM = 5 points
- Concentration exceeding SL by 6 OOM = 6 points

Indoor Air Contamination (maximum 5 points)

Indoor air contamination is evaluated using the primary risk drivers of the COCs compared to the ESLs (non-cancer hazard risk [Hazard Index] and cancer risk) by multiplying the highest soil vapor concentration by the vapor intrusion attenuation factor of 0.03 (0.001 for benzene and naphthalene),⁴ or by using the measured indoor air concentration, whichever is higher, as follows:

Hazard Score:⁵

- Concentration less than HI of 1 = 0 points
- Concentration equal to or greater than HI of 1 and less than 10 = 1 point
- Concentration equal to or greater than HI of 10 = 2 points

Cancer Score:

- Concentration less than cancer risk of 1×10^{-6} = 0 points
- Concentration equal to or greater than cancer risk of 1×10^{-6} and less than 1×10^{-4} = 0.5 points
- Concentration equal to or greater than cancer risk of 1×10^{-4} = 1 points

³ The SL for soil vapor is the Environmental Screening Level (ESL) (Environmental Screening Levels, San Francisco Bay Regional Board, rev. 2, 2019) or LTCP Appendix 4, Scenario 4 - Direct Measurement of Soil Gas Concentrations (2 of 2).

⁴ Office of Solid Waste and Emergency Response Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air, USEPA Office of Solid Waste and Emergency Response, June 2015.

⁵ For the TCE Hazard Score, USEPA residential Accelerated Response Action level for Hazard Index (HI) of 1 gets 2 points, and residential Urgent Response Action level HI of 3 gets 3 points. USEPA Region 9 Response Action Levels and Recommendations to Address Near-Term inhalation Exposures to TCE in Air from Subsurface Vapor Intrusion, July 9, 2014.

Drinking Water and Sensitive Receptor Impacts (maximum 4 points)

The impact, or threatened impact, to potential sources of drinking water and sensitive receptors (residences, schools, daycares, or hospitals) is evaluated based on distance to a drinking water supply well(s) or surface water source(s) within 2,000 feet and sensitive receptor(s) within 200 feet as follows:

- Surface water = 1 point
- Drinking water supply well = 1 point
- Impacted surface water = 2 points
- Impacted drinking water supply well = 2 points
- Impacted drinking water supply well (greater than 10) = 3 points
- Sensitive receptor = 2 points

B. Disadvantaged Community

Disadvantaged community (DAC) (maximum 12 points)

DAC status is determined by comparing the Median Household Income (MHI) for a census block group with the statewide MHI.⁶ A DAC is defined as a community with an MHI of below 80 percent of the statewide median annual household income. A “Severely Disadvantaged Community (SDAC)” is defined as a community with an MHI of below 60 percent of the statewide MHI. Points are assigned as follows:

- Non-Disadvantaged Community (NDAC) = 0 points
- DAC = 6 points
- SDAC = 12 points

C. Environmental Justice

Environmental Justice (EJ) (maximum 12 points)

Overall CalEnviroScreen scores are calculated from the scores for two groups of indicators: Pollution Burden and Population Characteristics. The Pollution Burden is made up of indicators from the Exposures and Environmental Effects components of the CalEnviroScreen model⁷ and Population Characteristics is made up of indicators from the Sensitive Population and Socioeconomic Factor components of the CalEnviroScreen model. The most recent CalEnviroScreen Percentile Score for the project location indicates whether the project is in area where EJ is a concern as follows:

⁶ U.S. Census Bureau; American Community Survey

⁷ California Communities Environmental Health Screening Tool: CalEnviroScreen

- Score less than or equal 25 = 0 points
- Score greater than 25 to less than or equal to 50 = 4 points
- Score greater than 50 to less than or equal to 75 = 8 points
- Score greater than 75 to 100 = 12 points

2. Qualitative Factors

A. Cost and Potential Environmental Benefit

The State Water Board reviews the cost of the proposed scope of work and works cooperatively with the Regional Water Board, the DTSC, or other applicable regulatory agency (regulatory agency) to evaluate the potential environmental benefit of the proposed investigation or cleanup. The State Water Board and the regulatory agency consider the site conditions as part of the evaluation of:

- Scope, schedule, and budget of the proposed work
- Technical feasibility of the proposed project.

For previously funded grant projects this will include an assessment of whether the project is at a critical juncture and continued funding would allow continued interim measures or cost-effective near-term corrective action to protect human health and the environment.

The site conditions above will be reviewed as a condition of funding. Should these conditions not meet program goals, the State Water Board, the regulatory agency, and the applicant may continue to work together to align the proposed project more appropriately or State Water Board may recommend other sources of funding to the applicant.

B. Other Sources of Funding

The State Water Board evaluates whether there are other sources of funding for the proposed investigation or cleanup, such as other state or federal grant funds, to determine whether SCAP funding is needed to complete the project. If the State Water Board determines that other funding is available, the State Water Board may require the project proponent to exhaust other available funding prior to awarding SCAP funding.

C. Small Community Designation

The State Water Board reviews the Small Community Designation to evaluate the potential environmental benefit of the proposed investigation or cleanup for communities with less than 10,000 people.

Attachment B

SCAP Fiscal Year (FY) Funding and Expenditure Plan

SCAP funding and expenditures for each FY are anticipated to include the following targets*:

1. 70 percent: Previously Funded Grant Projects (potentially 10-20 projects, depending on grant amounts)
2. 20 percent: New Grant Projects (potentially 3-5 projects, depending on grant amounts)
3. 10 percent: Contract Projects (potentially 5-10 projects, depending on contract amounts)

*These are targets only. Individual project funding decisions shall be made throughout the fiscal year by the Deputy Director or designee based on all relevant information including total remaining funding available; anticipated remaining fiscal year funding needs of projects with existing SCAP grants; the project's ranking under the SCAP Ranking Methodology (i.e., reachable placement on the applicable SCAP Priority List); and, for a project that has previously received SCAP funding, whether the project is at a critical juncture and continued funding would allow interim measures or cost-effective near-term action to mitigate risk to human health and the environment.