

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

1/7/16

2. Department

Fish and Wildlife

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

Office of Spill Prevention and Response

4. CEA Position Title

Assistant Deputy Administrator, Office of Spill Prevention and Response

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

This CEA position will serve as the Assistant Deputy Administrator (ADA) and as OSPR's special advisor to the Administrator and Deputy Administrator on legislative, regulatory, public relations and external affairs matters pertaining to OSPR and its expanded mission. As a key policy and public relations expert, the ADA will have extensive contact with a wide variety of individuals inside and outside of state government. In addition to being a member of OSPR's executive management team, the ADA also will be an integral member of the Director's Leadership Team, which is composed of the Department's executive level management staff.

6. Reports to: (Class Title/Level)

Administrator and Deputy Administrator of OSPR

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): On behalf of the Administrator, the ADA has frequent contact with Executive Management Team to ensure OSPR's mission critical issues are addressed.

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 ADA's primary objective will be to evaluate, plan, and direct OSPR's statewide statutory, regulatory, public relations and external affairs functions to help the Department fulfill its obligation to provide the best achievable protection of the State's waterways, and secure and sustain revenue streams for OSPR's programs from fees assessed on companies that ship and/or deliver oil products within California waters. The establishment and modification of these fees and assessments, as well as OSPR's operational and enforcement authority to protect the State's waterways, are achieved through legislative and regulatory actions. Legislative and regulatory actions are additional factors that significantly influence OSPR's operations, and its success in adapting to changes in the oil industry. As a result, the ADA will be responsible for evaluating existing statutory and regulatory authorities, providing expert consultation to the Administrator and Deputy Administrator on department-wide policies and the need for OSPR-directed proposals to amend current statutory and regulatory authorities to achieve its mission. The ADA will be responsible for coordinating with the Department's Office of Legislative Affairs in crafting and advancing of new legislative proposals that align OSPR's mission and objectives with state, federal and international maritime, commerce and environmental laws and oil industry practices; consulting with its Office of Communications, Education and Outreach on media events, town hall meetings, and outreach activities to the myriad of new communities, everyone from the mega-corporate Burlington Northern/Santa Fe Railroad to small mom-and-pop farms and rural volunteer fire departments; and advising the directorate on the political and economic sensitivity of imposing/adjusting fees on "big oil" and shipping magnates, as well as struggling home-grown small oil and gas producers. Because these issues are specific to OSPR and now cross over into entirely new industries (rail and pipeline) that have never been regulated by the Department before, the level of expertise and attention needed to successfully implement OSPR's statewide authority must be borne by OSPR as the Department's legislative, public and external affairs programs are unable to dedicate the necessary resources.

Additionally, the ADA will evaluate OSPR's program-wide fiscal needs, and coordinate OSPR's budget proposals to ensure they incorporate the ADA's analysis of the implications of shipping, transportation, maritime and oil industry trends, and national and international economic conditions. The ADA will present them to the Administrator and Deputy Administrator, as well as the Director, the Agency Secretary, the Department of Finance and the Governor's Office as necessary.

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: As noted, the authority and responsibility for all oil spill incidents that impact state waters rests with the OSPR Administrator as a sole and separate authority from the Director. While the Department has the overall mission "to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public," OSPR has the particular mission "to provide best achievable protection of California's natural resources by preventing, preparing for, and responding to spills of oil and other deleterious materials, and through restoring and enhancing affected resources" in furtherance of the global obligation to the people and resources of the state.

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.

The enactment of SB 861 radically changed OSPR's footprint by imposing upon it responsibilities that require the virtual re-creation of its operations. The addition of rail and trucking transport, pipeline, and domestic oil producers to its list of regulated entities produces a new set of regulatory, administrative and political challenges that must be identified, navigated and overcome to effectively prevent and prepare for oil spills. Since 1991, OSPR has directed exclusively those interests that operate within marine waters (such as oil tankers, freighters, and cruise ships), or may pose a threat to them (such as marine oil transfer stations and refineries). Changes in technology, industry, economies and environmental protections have evolved over the past 24+ years that have required OSPR's continued adaptation in its inspection, monitoring, certification, response, cost recovery and restoration activities. These issues have always been complex and sensitive, but are now even more so following incidents such as the 2010 Deep Water Horizon oil spill in the Gulf of Mexico (caused by a gushing oil rig), and the 2007 MV Cosco Busan spill in San Francisco Bay (caused by the vessel's allision with the Bay Bridge), which further incited public concern and political scrutiny, and impacted industry's bottom line. OSPR staff responded to both of these incidents: Deep Water Horizon because of its nationally-recognized expertise in oil spill response, and Cosco Busan because of its jurisdiction. Yet, even with its vast experience, OSPR came away with "lessons learned" from these, and every other spill incident, that resulted in the modification of OSPR's scientific protocols, or procurement of new equipment, or, most importantly, alternative community outreach methods and policies. The Cosco Busan spill resulted in congressional, legislative, gubernatorial and Bureau of State Audit hearings, investigations, directives and/or findings, which can all be tied directly to perceived inadequacies in the areas of public and external affairs. After the first major incident following the implementation of SB 861, the 2015 Refugio Spill in Santa Barbara (caused by a ruptured pipeline), a primary "lessons learned" was, again, in public and external affairs. The reason for this continuing theme isn't reflective of OSPR's efforts, but the ever-changing nature of the public's opinion and concern, coupled with the instant gratification received from social media usage. These factors influence the type and manner in which information about OSPR, its operations and its spill response activities is shared, and underscore the need for instilling a knowledge base in our stakeholders before an incident occurs, and fostering partnerships with local jurisdictions and non-governmental organizations that OSPR can tap into during an incident.

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 position's primary objective will be to evaluate, plan, and direct OSPR's statutory, regulatory, public relations and external affairs matters. One key policy area will cover the establishment of Certificate of Financial Responsibility criteria to be met by the newly regulated communities in demonstrating sufficient liability insurance coverage or the independent financial wherewithal to finance the clean-up and restoration of resources damaged by a spill. Since the majority of the newly regulated do not carry such insurance, the California insurance community currently is struggling to determine how to service its clients. Unreasonable exposure can jeopardize the health of the insurer. Failure to obtain sufficient coverage can jeopardize the continuing oil-related operations of the insured. Either scenario could result in detrimental economic failures to which the state must not maliciously contribute. The ADA will be responsible for working directly with both communities to identify and, if necessary, negotiate reasonable solutions that protect the state's natural resources and its economic interests.

A second key policy area will cover the establishment and modification of fees and assessments on entities that transport and produce oil products. Currently, there are well-defined monetary considerations for entities that operate within the marine environment. Similar, yet, tailored considerations must be established, processed and enforced for entities that operate within the inland environment. This is a significant effort, particularly since the national railroad operators already have noticed the state of its intent to file a federal injunction from such fees and assessments as soon as they are levied. The "new" practice of fracking, a method of oil and gas production that involves blasting huge amounts of water, mixed with sand and toxic chemicals, under high pressure deep into the earth, presents another area that will be within the purview of the ADA. This is an exceptionally controversial practice that has generated intense legislative, environmental group and public opposition. With OSPR's new statewide mandate, these oil production operations can fall under OSPR's prevention, preparedness and response jurisdiction, which will require extensive legislative, regulatory and external affairs actions by OSPR. Another key policy area will encompass the expansion of OSPR's local government grant program, which provides funding for the purchase of and training with response equipment to meet the needs of unique stakeholders and the topography of rural, high-mountain, and remote waters where spills can occur.

Another example of a key policy area is OSPR's foray into social media for communications and outreach, which must become more comprehensive to serve its new customer and stakeholder base, and will require policy formulation to be instituted at the department-level. Additionally, the external affairs aspects of this position that will involve establishing and/or fostering productive relationships with stakeholders and fellow jurisdictions will be at the policy level due to the sensitive and political nature of these groups, such as the US EPA, Federal Railroad Administration, US DOT Pipeline and Hazardous Materials Safety Administration, tribal governments, and NGOs.

C. ROLE IN POLICY INFLUENCE (continued)

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

This position's scope will focus on all aspects of OSPR operations, programs and authorities that are involved in implementing OSPR's statewide expansion. The ADA will be part of OSPR's Executive Management Team and as such will have regular interface with the Director, Deputy Directors, Branch Chiefs and Regional Managers, all of whom are at the first, second and third organizational level. Policies and procedures that the ADA develops and oversees will impact all departmental staff; regulations that the ADA formulates will impact all oil-related entities doing business in California; and legislation that the ADA shepherds will impact the economical, commercial, recreational and natural resource conservation interests of the state.

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

Due to OSPR's independent authority and mandates established through legislation and regulatory action, the Administrator (or its designee) has sole responsibility for existing statutes, policies and procedures that address OSPR's original marine-based programs, and which now must be considered, modified, expanded and or replicated to represent OSPR's new statewide role. In this way, the ADA will both develop and implement new and existing policy. The ADA also will regularly assess OSPR's operational efficiencies in order to determine the need for an increase or decrease in the fees and assessments placed on industry, which is done through legislative or regulatory action. The substantial increase and diversity of OSPR's expanded regulated community will require new prevention, preparedness and response operations policies. Further, it will require procedures and management practices involving unknown environs, entities and risks, as well as statutory and regulatory actions to establish and maintain a revenue stream parallel to OSPR's established marine program.